SUPREME COURT OF THE UNITED STATES.

No. 124.

MARTIN LUTHER, PLAINTIFF IN ERROR,

vs.

LUTHER M. BORDEN ET AL.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE DISTRICT OF RHODE ISLAND.

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THE UNITED STATES OF AMERICA,
District of Rhode Island, to wit:

At a circuit court of the United States for the first circuit, in and for the Rhode Island district, begun and holden at the city of Providence, on the fifteenth day of November, in the year of our Lord one thousand eight hundred and forty-three—

Present: The honorable Joseph Story, associate justice of the Supreme Court of the United States; the honorable John Pitman, U. S. district judge for said district; Richard W. Greene, esq., U. S. district attorney; Sylvester Hartshorn, esq., U. S. marshal; John T. Pitman, clerk.

Among other, were the following proceedings, to wit:

MARTIN LUTHER
vs.
LUTHER M. BORDEN et al.

Be it remembered that heretofore, to wit, on the sixth day of October, in the year of our Lord one thousand eight hundred and forty-two, the said Martin Luther, by Benjamin F. Hallett, his attorney, prosecuted and sued forth out of the circuit court here, the writ of the United States of America, directed to the marshal of the Rhode Island district aforesaid, in the words, and of the tenor following, to wit:

Writ.

RHODE ISLAND DISTRICT, *sc:*

The President of the United States of America to the marshal of said [L. S.] district, or to his deputy, greeting:

We command you to arrest the bodies of Luther M. Borden, master mariner; Stephen Johnson, cooper; William L. Brown, carpenter; John H. Monroe, tailor; William B. Snell, custom-house officer; James Gardner, merchant; Silas P. Martin, master mariner; Hammond Sergeant, seaman; and John Kelly, master mariner; all of Warren, in said district, and all citizens of the State of Rhode Island and Providence Plantations, if they may be found in your district; and for want of their bodies, to attach their goods and chattels to the value of five thousand dollars, and him or them in safe custody keep, to answer the complaint of Martin Luther, of Fall river, in the State of Massachusetts, trader, and a citizen of said State of Massachusetts, at the next circuit court to be holden at Providence, within and for the Rhode Island district, on the fifteenth day of November next ensuing the date hereof, in an action of trespass; for that the defendants, on 25th day of June, A. D. 1842, at Warren, in the Rhode Island district, with force and arms, illegally broke and entered the plaintiff's close and ill-treated his family, as by the declaration to be filed in court will be fully set forth, to the damage of the

plaintiff five thousand dollars. Hereof fail not, and make true return of this writ, with your doings thereon.

Witness the honorable Roger B. Taney, our chief justice, at Providence, this sixth day of October, anno domini 1842.

JOHN T. PITMAN, *Clerk.*

Benjamin F. Hallett, attorney for plaintiff.

Asel Steen, bond for plaintiff.

Mr. Officer, hold to bail the defendants.

Rodolphus B. Johnson, bail for Luther M. Borden, Stephen Johnson, and John H. Munroe.

Joseph Smith, bail for William L. Brown.

Henry H. Luther, bail for James Gardner and William B. Snell.

George T. Gardner [and] Martin L. Salisbury, bail for John Kelly.

And on the eighth day of October, in the year of our Lord one thousand eight hundred and forty-two, Sylvester Hartshorn, esquire, marshal, to whom the said writ was in form aforesaid directed, makes return thereof to the court here, thus endorsed, to wit:

Marshal's return.

RHODE ISLAND DISTRICT, *sc:*

WARREN, *October 8th*, 1842.

Arrested the bodies of the within named Luther M. Borden, Stephen Johnson, and John H. Munroe, and have taken Rodolphus B. Johnson as bail. Also arrested the body of William L. Brown, and have taken Joseph Smith for bail. Also arrested the bodies of James Gardner and William B. Snell, and have taken Henry H. Luther as bail. Also arrested the body of John Kelly, and have taken George T. Gardner and Martin L. Salisbury as bail, as commanded. The within named Silas P. Martin and Hammond Sergeant, being absent from this district, are not arrested.

SYLVESTER HARTSHORN, *U. S. marshal.*

Fees—7 services,	$14 00
Travel 11 miles,	1 10
Bail for 7,	3 50
4 copies,	2 00
	$20 60

And the aforesaid Martin Luther, by his attorney Benjamin F. Hallett, afterwards, to wit, at the November term of said court, A. D. 1842, declared against the said Luther M. Borden, Stephen Johnson, William L. Brown, John H. Munroe, William B. Snell, James Gardner, and John Kelly, in plea following, and in form following, to wit:

Declaration.

RHODE ISLAND DISTRICT, *sc:*

CIRCUIT COURT OF THE UNITED STATES,
November term, A. D. 1842.

Martin Luther, of Fall river, in the State of Massachusetts, trader, and a citizen of the State of Massachusetts, complains of Luther M. Borden,

master mariner; Stephen Johnson, cooper; William L. Brown, carpenter; John H. Munroe, tailor; William B. Snell, custom-house officer; James Gardner, merchant; John Kelly, master mariner; all of Warren, in the Rhode Island district, and citizens of the State of Rhode Island, (Silas P. Martin and Hammond Sergeant, also citizens of said State of Rhode Island, and named defendants in the original writ, not being found by the marshal,) in an action of trespass; for that the said defendants, and the said Martin and Sergeant, at said Warren, on the 29th of June, A. D. 1842, with fource and arms, broke and entered the plaintiff's dwelling house situated in said Warren, then and there occupied by the said plaintiff and his family; and having so broke and entered as aforesaid, with like fource and arms in the night time, and in a menaceing and ruffianly manner towards the family in said house, broke and tore down and defased the doors, glasses, windows, and furniture, misused and defiled the said house above stairs, and insulted and drove from there beds the females, and other inmates in said house, there quietly keeping; and grossly insulted and assaulted the mother of the plaintiff, and threatened to run her through with a bayonet, and other [w]rongs and injuries then and there did to the plaintiff, against the peace; to the damage of the plaintiff five thousand dollars, as set fourth in his writ dated the sixth day of October, A. D. 1842; wherefore he sues, by his attorney,

BENJAMIN F. HALLETT.

And afterwards, to wit, at said November term, came the said Luther M. Borden, Stephen Johnson, William L. Brown, John H. Munroe, William B. Snell, James Gardner, and John Kelly, by their attornies Richard W. Greene, Alfred Bosworth, and John Whipple, esquires, and made answer as of said term, in the forms and words following, to wit:

Answer.—First plea.

And the defendants come, &c., and defend the force and injury, when, &c.; and as to the breaking and entering the plaintiff's dwelling-house, as set forth in the plaintiff's declaration, say, that the plaintiff, his action aforesaid against them ought not to have or maintain, because they say that, on the 24th day of June, A. D. 1842, and for a long time before, and from that time continually, until after the time the said trespasses are alleged to have been committed, large numbers of men were assembled in arms in different parts of the said State of Rhode Island and Providence Plantations, for the purpose, and with the intent, of overthrowing the government of said State, and destroying the same by military force; and with such illegal, malicious, and traitorous intent and purpose, at and during the times aforesaid, did, in different parts of said State, make and levy war upon said State, and upon the government and citizens thereof, attempting and enterprising the hurt, detriment, annoyance, and destruction, of the inhabitants of said State, and the overthrow of the government thereof.

And the defendants aver that, in order to protect and preserve the said State, and the government and citizens thereof, the said State of Rhode

Island, on the 25th day of June, 1842, was, by legal and competent authority, declared to be under martial law; and the commanders and military officers of said State were authorized to use and exercise the law martial. And the defendants aver that, at said time, when said State was declared to be under martial law as aforesaid, the occasion necessarily required the use and exercise of the law martial in said State.

And the defendants further aver, that at the time when the pretended trespasses, mentioned and set forth in the plaintiff's declaration, are alleged to have been committed, the plaintiff was aiding and assisting in the aforesaid traitorous, malicious, and unlawful purposes and designs of overthrowing the government of said State by military force, and in making war upon said State, and upon the government and citizens thereof.

And the defendants further aver, that at the time when the said trespasses are alleged to have been committed, the said State was under martial law as aforesaid, and the commanders and military officers of said State were legally authorized to use and exercise the law martial, and that, at said time, the defendants were enrolled in the company of infantry, in the town of Warren, in the fourth regiment of the militia of said State, and were under the command of John T. Child, a military officer, duly appointed and legally qualified to act as their commander; and at said time, the defendants, at said Warren, were ordered by the said John T. Child, their said commander, to arrest and take the said Martin Luther; and, if necessary for the purpose of arresting and taking the said Martin Luther, to break and enter the dwelling-house of the said Martin Luther. And the defendants, verily believing that the said Martin Luther was concealed in said dwelling-house, did, then and there, in obedience to the command of the said John T. Child, their said commander, enter the said dwelling-house of the said Martin Luther, for the purpose of arresting and taking the said Martin Luther; and because it was necessary to enter the said dwelling-house, in order to arrest and take the said Martin Luther, in obedience to the command of the said John T. Child, their said commander, and to search and examine the different rooms and apartments of the said dwelling-house, the defendants did, then and there, with a little force, break and enter the said dwelling-house, and search and examine the different rooms and apartments in said dwelling-house, for the purpose of arresting and taking the said Martin Luther, doing as little damage as possible, and not injuring or hurting the persons abiding in said dwelling-house—which it was lawful for them to do. Wherefore, the defendants pray judgment, if the plaintiff, his action aforesaid thereof against them ought to have or maintain, and for their costs.

Second plea.

Saving which, if overruled, by leave of court first had and obtained, and for further plea, the defendants come, &c., and defend the force and injury, and as to the breaking and entering the plaintiff's dwelling-house, set forth in the declaration of the plaintiff, say, that the plaintiff

his action aforesaid ought not to have or maintain, because they say, that at the time when the pretended trespasses, mentioned and set forth in the plaintiff's declaration, are alleged to have been committed, large numbers of men were assembled in arms, in warlike array, in the State of Rhode Island and Providence Plantations, who, in different parts of said State, made and levied war upon said State, and were attempting and enterprising the hurt, detriment, annoyance, and destruction of the inhabitants of said State, and the overthrow of the government of said State by military force, (and the said State of Rhode Island was, by legal and competent authority, declared to be under martial law;) and the commanders and military officers of said State were authorized to use and exercise the law martial.

And the defendants aver, that in order to protect and preserve the said State, and the government and citizens thereof, the occasion necessarily required the use and exercise of the law martial at said time, in said State; and the defendants were enrolled in the company of infantry, in the town of Warren, in said State, in the fourth regiment of the militia of said State, and were under the command of John T. Child, a military commander, duly appointed and legally qualified to act as their commander, and were ordered by their said commander, at said Warren, to arrest and take said Martin Luther, who was supposed to be concealed in said dwelling-house of said Martin Luther; and the defendants, in obedience to the command of the said John T. Child, their said commander, did enter the said dwelling-house for the purpose of arresting said Martin Luther; and because it was necessary, in order to arrest and take the said Martin Luther, according to the command of the said John T. Child, to enter the said dwelling-house, and to search and examine the different rooms and apartments of the said dwelling-house, the defendants, by order of the said John T. Child, did, then and there, break and enter the said dwelling-house, and did search and examine the different rooms and apartments of the said dwelling-house, for the purpose of arresting and taking said Martin Luther, doing as little damage as possible, as was lawful for them to do. All which the defendants are ready to verify. Wherefore, they pray judgment, if the plaintiff his action aforesaid ought to have or maintain against them, and for their costs.

Third plea.

Saving which, if annulled, by leave of court first had and obtained, and for further plea, the defendants come, &c., and defend the force and injury, as to the breaking and entering the plaintiff's dwelling-house, set forth in the declaration of the plaintiff, and say, that the plaintiff his action aforesaid ought not to have or maintain, because, they say, that at the time when the pretended trespasses, mentioned and set forth in the plaintiff's declaration, are alleged to have been committed, large numbers of men were assembled in arms, in warlike array, in the State of Rhode Island and Providence Plantations, who, in different parts of said State, made and levied war upon said State, and were attempting and

enterprising the hurt, detriment, annoyance, and destruction of the inhabitants of said State, and the overthrow of the government of said State by military force.

And the defendants aver, that the legislature of said State of Rhode Island, duly and legally chosen, constituted, and elected, according to the provisions of the charter or fundamental law, and the ancient and long established usages of said State, enacted the following law, in pursuance of the authority contained in the said charter of the ancient usages of the State, and of the general legislative powers conferred on them by said charter and usages, to wit:

"*An act establishing martial law in this State.*

Be it enacted by the general assembly as follows, section 1. The State of Rhode Island and Providence Plantations is hereby placed under martial law, and the same is declared to be in full force until otherwise ordered by the general assembly, or suspended by proclamation of his excellency the Governor of the State."

And the commanders and military officers of said State, were authorized to use and exercise the law martial. And the defendants aver, that in order to protect the said State, and the government and citizens thereof, the occasion necessarily required the use and exercise of the law martial at said time, in said State; and the defendants were enrolled in the company of infantry, in the town of Warren, in said State, in the fourth regiment of the militia of said State, and were under the command of John T. Child, a military commander, duly appointed and legally qualified to act as their commander, and were ordered by their said commander, at said Warren, to arrest and take said Martin Luther, who was supposed to be concealed in said dwelling-house of said Martin Luther; and the defendants, in obedience to the command of said John T. Child, their said commander, did enter said dwelling-house for the purpose of arresting said Martin Luther; and because it was necessary, in order to arrest and take said Martin Luther, according to the command of the said John T. Child, to enter the said dwelling-house, and to search and examine the different rooms and appurtenances of the said dwelling-house, the defendants, by order of the said John T. Child, did, then and there, break and enter the said dwelling-house, and did search and examine the different rooms and apartments of the said dwelling-house, for the purpose of arresting and taking said Martin Luther, as was lawful for them to do, doing as little damage as possible—all which the defendants are ready to verify. Wherefore, they pray judgment, if the plaintiff his action aforesaid ought to have or maintain against them, and for their costs.

Fourth plea.

And as to the residue of the trespasses set forth in the plaintiff's declaration, except the breaking and entering of the plaintiff's dwelling-house, and searching and examining the rooms and apartments in said dwelling-house, doing as little damage as possible, for the purpose of arresting and taking the said Martin Luther, the defendants, by leave of

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court, &c., come and defend the force and injury, when, &c., and say that they are not guilty in manner and form as the plaintiff in his declaration thereof against them has declared; and of this they put themselves upon the country for trial.

By their attorneys,

GREENE & BOSWORTH & WHIPPLE.

And the said plaintiff to said pleas replied in the words and form following, to wit:

Replication.

And the plaintiff says that he ought not to be precluded from having and maintaining his action aforesaid thereof against them the said defendants, by reason of any matter or thing above by them in their said pleas in bar alleged, because he, the said plaintiff, says that the said defendants, at the time when, &c., committed the trespass aforesaid, in his, the said plaintiff's, declaration, alleged of their, the said defendants, own wrong, and without such cause, as is by the said defendants in their said pleas alleged; and this the plaintiff prays may be inquired of by the country.

By his attorney, B. F. HALLETT.

And the said defendants to said replication rejoin in the words and form following, viz:

Rejoinder.

And the defendants likewise.

By GREENE, WHIPPLE & BOSWORTH.

And said cause having been continued from term to term, until the present, is now called for trial, when motion is made by the defendants that the plaintiff give further security for costs. And the court having thereupon ordered the same to be given, the said plaintiff gives further and satisfactory security in the words and form following, to wit:

Bond for costs.

Know all by these presents, that we, Martin Luther, of Fall River, in the State of Massachusetts, trader, as principal, and Hezekiah Willard, of Cranston, in the State of Rhode Island, &c., as surety, are firmly bound unto Luther M. Borden, Stephen Johnson, William L. Brown, John H. Munroe, William B. Snell, James Gardner, John Kelly, all of Warren, in said State of Rhode Island, in the sum of five hundred dollars, to be paid to the said Luther M. Borden, Stephen Johnson, William L. Brown, John H. Munroe, William B. Snell, James Gardner, and John Kelly; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators firmly by these presents.

Sealed with our seals, and dated this eighteenth day of November, 1843.

The condition of the above obligation is such, that whereas the above bounden Martin Luther is plaintiff in an action at law against the above

named Luther M. Borden, Stephen Johnson, William L. Brown, John H. Munroe, William B. Snell, James Gardner, and John Kelly, defendants, now pending in the circuit court of the United States, within and for the Rhode Island district, and further security for costs having been ordered to be given by said court.

Now, therefore, if the said Martin Luther shall faithfully pay all such costs as shall be taxed against him, and allowed by said court, in said action, then this obligation to be void, otherwise to remain in full force and virtue.

MARTIN LUTHER, [L. S.]
HEZEKIAH WILLARD. [L. S.]

Signed and sealed in presence of—the words in the third and fourth lines from bottom being first erased—

SIMON KINNICUTT,
BENJAMIN M. BOSWORTH,
HORACE A. MANCHESTER, witness to signature of H. Willard.

And the cause is then committed to the following jury:

Jury.

John D. Brown, *foreman;* Jonathan C. Kenyon, Silas Steere, Joseph Burton, Edwin Harris, Billings S. Farrington, Allen Wells, Nathaniel Arnold, jr., Nathaniel Chace, Bowen Vaughan, Gideon B. Whitford, Peter Taylor.

Who return the following verdict, duly affirmed and recorded by the court:

Verdict.

The jury find for the defendants.

JOHN D. BROWN, *Foreman.*

Judgment.

Whereupon, it is considered by the court here that the defendants have and recover of the plaintiff their costs of suit taxed at .

Plaintiff's bill of exceptions.

RHODE ISLAND DISTRICT, *sc:*

MARTIN LUTHER
vs.
LUTHER M. BORDEN et als.

Circuit court of the United States, November term, 1843.

Be it remembered, that upon the trial of the aforesaid issue before said jury, duly empannelled to try the same:

The defendants offered in evidence, in support of their first, second, and third pleas:

First. The charter of the colony of Rhode Island and Providence Plantations, and the acceptance of the same at a very great meeting and assembly of all the freemen of the then colony of Rhode Island and Pro-

vidence Plantations, legally called and held at Newport, in the said colony, on the twenty fourth day of November, A. D. 1663.

That on the twenty-fifth day of November, A. D. 1663, the former lawful colonial government of the said colony dissolved itself, and the said charter became and was henceforth the fundamental law or rule of government for said colony. That, under and by virtue of said charter and the acceptance thereof as aforesaid, the government of said colony was duly organized, and by due elections was continued, and exercised all the powers of government granted by it, and was recognized by the inhabitants of said colony, and by the king of Great Britain and his successors, as the true and lawful government of said colony, until the fourth day of July, A. D. 1776.

That the general assembly of said colony, from time to time, elected and appointed delegates to the General Congress of the delegates of the several colonies of North America, held in the years 1774, 1775, and 1776, and to the Congress of the United States of America, in the years 1776 and 1778. And that said delegates of said colony of Rhode Island and Providence Plantations were received by, and acted with, the delegates from the other colonies and States of America, in Congress assembled, as the delegates representing the said colony and State of Rhode Island and Providence Plantations; and that on the fourth day of July, A. D. 1776, said delegates of the said colony of Rhode Island and Providence Plantations united with the delegates of the other colonies as representatives of the United States of America, and as such, assented to and signed in behalf of said colony the Declaration of the Independence of the United States of America.

That afterward, to wit, at the July session of the general assembly of said State of Rhode Island and Providence Plantations, said general assembly, by resolution thereof, did approve the said Declaration of Independence made by the Congress aforesaid, and did most solemnly engage that they would support the said General Congress in the said Declaration with their lives and fortunes.

That afterwards, to wit, on the ninth day of July, 1778, the said State of Rhode Island and Providence Plantations, by her delegates duly authorized thereunto, became a party to the articles of confederation and perpetual union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticutt, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, and Georgia, and ratified and confirmed the same; and as one of the United States of America under said articles of confederation and perpetual union, was received, recognized, and acted with, and by the other States of the said confederation, and by the United States of America in Congress assembled, during the continuation of said confederacy.

That, after the dissolution of said confederacy, to wit, on the twenty-ninth day of May, A. D. 1790, said State of Rhode Island and Providence Plantations in convention duly called, elected and assembled under an act of the general assembly of said State, ratified the Constitution of the United States, and under the same became, and ever since has been, one of the

said United States, and as such, under the Constitution and laws of the United States, and of the said State of Rhode Island and Providence Plantations, hath ever elected and sent, and doth now send, senators and representatives to the Congress of the United States, who have been since, and now are, received and recognized as such by the said United States, and in all respects have ever been received and recognized by the several States and by the United States, as one of the said United States under the said Constitution thereof.

That from the said fourth of July, A. D. 1776, to the present time, the said charter and the said government of the said State of Rhode Island and Providence Plantations, organized under the same, hath ever been acted under and recognized by the people of said State, and hath been recognized by each of the said United States, and hath been recognized and guarantied by the said United States as the true lawful and republican constitution and form of government of said State; and that the said charter continued to regulate the exercise and distribution of the powers of said government of said State, and except so far as it hath been modified by the revolution, and the new order of things consequent thereon, continued to be the fundamental law of said State, until the adoption of the present constitution of said State, and the organization of the government under the same.

That all the officers of the said government of said colony and State of Rhode Island and Providence Plantations, organized under said charter as aforesaid, were elected in conformity with said charter, and with the existing laws from the first organization of the government under the said charter, until the organization of the government under the present constitution of said State, and were and continued to be in the full exercise of all the powers of said government, and in the full possession of all the State houses, court houses, public records, prisons, jails, and all other public property, until the regular and legal dissolution of said government by the adoption of the present constitution, and the organization of the present government under the same.

Second. That the general assembly of said State, at their January session, in the year of our Lord one thousand eight hundred and forty-one, passed resolutions, in the words following, to wit:

Resolved by this general assembly, (the senate concurring with the house of representatives therein,) That the freemen of the several towns in this State, and of the city of Providence, qualified to vote for general officers be, and they are hereby, requested to choose at their semi-annual town or ward meetings, in August next, so many delegates, and of the like qualifications as they are now respectively entitled to choose representatives to the general assembly, to attend a convention, to be holden at Providence, on the first Monday of November, in the year of our Lord one thousand eight hundred and forty-one, to frame a new constitution for this State, either in whole or in part, with full powers for this purpose; and if only for a constitution in part, that said convention have under their especial consideration the expediency of equalizing the representation of the towns in the house of representatives.

Resolved, That a majority of the whole number of delegates, which all the towns are entitled to choose, shall constitute a quorum; who may elect a president and secretary; judge of the qualifications of the members, and establish such rules and proceedings, as they may think necessary; and any town or city, which may omit to elect its delegates at the said meetings in August, may elect them at any time previous to the meeting of said convention.

Resolved, That the constitution or amendments agreed upon by said convention shall be submitted to the freemen in open town or ward meetings, to be holden at such time as may be named by said convention. The said constitution or amendments shall be certified by the president and secretary, and returned to the Secretary of State; who shall forthwith distribute to the several town and city clerks, in due proportion, one thousand printed copies thereof, and also fifteen thousand ballots; on one side of which shall be printed (amendment or constitution) adopted by the convention holden at Providence, on the first Monday of November last; and on the other side, the word *approve* on the one half of the said ballots, and the word *reject* on the other half.

Resolved, That at the town or ward meetings, to be holden as aforesaid, every freeman voting shall have his name written on the back of his ballot; and the ballots shall be sealed up in open town or ward meeting by the clerks, and with lists of the names of the voters shall be returned to the general assembly at its next succeeding session; and the said general assembly shall cause said ballots to be examined and counted, and said amendments or constitution, being approved of by a majority of the freemen voting, shall go into operation and effect at such time as may be appointed by said convention.

Resolved, That a sum not exceeding three hundred dollars, be appropriated for defraying the expenses of said convention, to be paid according to the order of said convention, certified by its president.

That at their May session, in the year of our Lord one thousand eight hundred and forty-one, the said general assembly passed resolutions in the words following, to wit:

Resolved by this general assembly, (the senate concurring with the house of representatives therein,) That the delegates from the several towns to the State convention to be holden in November next, for the purpose of framing a State constitution, be elected on the basis of population, in the following manner, to wit: every town of not more than eight hundred and fifty inhabitants may elect one delegate; of more than eight hundred and fifty, and not more than three thousand, inhabitants, two delegates; of more than three thousand, and not more than six thousand, inhabitants, three delegates; of more than six thousand, and not more than ten thousand, inhabitants, four delegates; of more than ten thousand, and not more than fifteen thousand, inhabitants, five delegates; of more than fifteen thousand inhabitants, six delegates.

Resolved, That the delegates attending said convention be entitled to receive from the general treasury the same pay as members of the general assembly.

Resolved, That so much of the resolutions, to which these are in amendment, as is inconsistent herewith, be repealed.

And that, at their January session, in the year of our Lord one thousand eight hundred and forty-two, the said general assembly passed resolutions in the words following, to wit:

Whereas, a portion of the people of this State, without the forms of law, have undertaken to form and establish a constitution of government for the people of this State, and have declared such constitution to be the supreme law, and have communicated such constitution to the general assembly; and whereas many of the good people of this State are in danger of being misled by these informal proceedings; therefore—

It is hereby resolved by this general assembly, That all acts done by the persons aforesaid, for the purpose of imposing upon this State a constitution, are an assumption of the powers of government in violation of the rights of the existing government, and of the rights of the people at large.

Resolved, That the convention called and organized in pursuance of an act of this general assembly, for the purpose of forming a constitution to be submitted to the people of this State, is the only body which we can recognize as authorized to form such a constitution, and to this constitution the whole people have a right to look, and we are assured they will not look in vain, for such a form of government as will promote their peace, security, and happiness.

Resolved, That this general assembly will maintain its own proper authority, and protect and defend the legal and constitutional rights of the people."

And that, at their January session, in the year of our Lord one thousand eight hundred and forty-two, the said general assembly passed an act in the words following, to wit:

"An act in amendment of an act, entitled an act revising the act entitled an act regulating the manner of admitting freemen, and directing the manner of electing officers in this State.

Whereas the good people of this State having elected delegates to a convention to form a constitution, which constitution, if ratified by the people, will become the supreme law of the State; therefore—

Be it enacted by the general assembly as follows: All persons now qualified to vote, and those who may be qualified to vote under the existing laws, previous to the time of such their voting, and all persons who shall be qualified to vote under the provisions of such constitution, shall be qualified to vote upon the question of the adoption of the said constitution.

That under, and by virtue of, the resolutions and acts last aforesaid, a written constitution of government for the said State of Rhode Island and Providence Plantations was framed by a convention legally called, elected, and assembled, and that said proposed constitution was, in pursuance of the said resolutions and acts on the twenty-first, twenty-second, and twenty-third days of March, A. D. 1842, submitted for adoption or rejection to all persons qualified by the existing laws of said State to vote, and also to all persons who, under the provisions of said constitu-

tion, were qualified to vote, in the legal town and ward meetings of said State and of the city of Providence, legally called and assembled, and was by a majority of the persons, so qualified by law to vote thereon, and actually voting thereon, rejected. That the said Martin Luther, and his confederates, in causing and fomenting the said rebellion, voted against the adoption of said constitution; a copy of which is hereunto annexed, marked A.

Third. The defts. further offered all the acts, resolutions, and proceedings of the said general assembly of the said colony and State of Rhode Island and Providence Plantations, from the organization of the said government under the said charter, until the organization of the present government under the present constitution.

Fourth. The defts. offered evidence, that on the twenty-fourth day of June, A. D. 1842, and for a long time before, and from that time continually, until after the time when the said trespasses are alleged in the plff's said declaration to have been committed, large numbers of men, among whom was the said Martin Luther, were assembled in arms in different parts of the said State of Rhode Island and Providence Plantations, for the purpose and with the intent of overthrowing the government of said State, and destroying the same by military force; and with such illegal, malicious, and traitorous intent and purpose, at and during the times aforesaid, did, in different parts of said State, make and levy war upon said State, and upon the government and citizens thereof, and did attempt and enterprise the hurt, detriment, annoyance, and destruction of the inhabitants of said State, and the overthrow of the government thereof.

Fifth. That in order to protect and preserve said State, and the government and the citizens thereof, from the destruction threatened by said rebellion and military force, the general assembly of said State, on the twenty-fifth day of June, A. D. 1842, enacted and declared martial law in the words following:

"*An act establishing martial law in this State.*"

Be it enacted by the general assembly as follows: *Section* 1. The State of Rhode Island and Providence Plantations is hereby placed under martial law, and the same is declared to be in full force, until otherwise ordered by the general assembly, or suspended by proclamation of his excellency the Governor of the State.

And thereupon, on the twenty-sixth day of June, A. D. 1842, Samuel Ward King, governor, captain general, and commander-in-chief in and over said State of Rhode Island and Providence Plantations, issued his proclamation in the words and figures following:

By his excellency Samuel Ward King, governor, captain-general, and commander-in-chief of the State of Rhode Island and Providence Plantations.

A proclamation.

Whereas the general assembly of the said State of Rhode Island and Providence Plantations, did, on the twenty-fifth day of June, A. D. 1842, pass the act following, to wit:

An act establishing martial law in this State.

Be it enacted by the general assembly as follows: Section 1. The State of Rhode Island and Providence Plantations is hereby placed under martial law, and the same is declared to be in full force until otherwise ordered by the general assembly, or suspended by proclamation of his excellency the Governor of the State.

I do, therefore, issue this my proclamation, to make known the same unto the good people of this State and all others, that they may govern themselves accordingly. And I do warn all persons against any intercourse or connexion with the *traitor* Thomas Wilson Dorr, or his deluded adherents, now assembled in arms against the laws and authorities of this State, and admonish and command the said Thomas Wilson Dorr and his adherents immediately to throw down their arms and disperse, that peace and order may be restored to our suffering community, and as they will answer the contrary at their peril. Further, I exhort the good people of this State to aid and support by example, and by arms, the civil and military authorities thereof, in pursuing and bringing to condign punishment all engaged in said unholy and criminal enterprise against the peace and dignity of the State.

In testimony whereof, I have caused the seal of said State to be affixed to these presents, and having signed the same with my [L. S.] hand. Given at the city of Providence, on the twenty-sixth day of June, A. D. 1842, and of the independence of the United States of America the sixty-sixth.

SAMUEL WARD KING.

By his excellency's command.
HENRY BOWEN, *Secretary.*

Sixth. That at the time when the trespasses, mentioned and set forth in the plff's said declaration, are alleged to have been committed, and at divers other times before that time, the pltf. was aiding and abetting the aforesaid traitorous, malicious, and unlawful purposes and designs of overthrowing the government of said State by rebellion and military force, and in making war upon said State, and upon the government and citizens thereof.

Seventh. That at the time when the pretended trespasses, mentioned in the plaintiff's declaration, are alleged to have been committed, the said State was under martial law as aforesaid, and the said defendants were enrolled in the company of infantry in the said town of Warren, in the fourth regiment of the militia of said State, and were under the command of John T. Child.

Eighth. That said John T. Child, on the twenty-fifth day of June, A. D. 1842, was duly commissioned and sworn as a quartermaster of the fourth regiment of the first brigade of militia of Rhode Island, and continued to exercise such command until after the time when the trespasses, mentioned in the plaintiff's declaration, are alleged to have been committed; that on the twenty-seventh day of June, A. D. 1842, the said John T. Child received written orders from Thomas G. Turner, esq., lieutenant colonel, commanding said regiment, and duly commis-

sioned and sworn, "to continue to keep a strong armed guard, night and day, in the said Warren, and to arrest every person, either citizens of Warren or otherwise, whose movements were in the least degree suspicious, or who expressed the least willingness to assist the insurgents who were in arms against the law and authorities of the State.

Ninth. That these defendants were ordered, by the said John T. Child, their commander as aforesaid, to arrest and take the said Martin Luther, and, if necessary for the purpose of arresting and taking the said Luther, these defendants were ordered to break and enter the dwelling house of said Luther.

Tenth. That these defendants, in compliance with said orders, and for the purpose of arresting and taking said Luther, proceeded to his house and knocked at the door, and not being able to obtain admission therein, forced the latch of the door of said house, and entered the same for the purpose of making said arrest, doing as little damage as possible.

Eleventh. That at the time these defendants were ordered to arrest the said Martin Luther, as before stated, the town of Warren was in danger of an attack from the said Martin Luther and his confederates, and the inhabitants of said town were in great alarm on account thereof.

And the counsel for the plaintiff, to maintain and prove the issue on his part, offered in evidence the following matters, facts, and things, in manner following, to wit:

First. The plaintiff offered in evidence the proceedings and resolutions of a convention of the State of Rhode Island and Providence Plantations, passed 29th May, 1790, a copy whereof is hereunto annexed, marked A.

Second. The plaintiff offered in evidence the report of a committee of the house of representatives of the State of Rhode Island, &c., made in June, 1829, upon certain memorials to them directed therein, praying for an extension of the right of suffrage in said State, a copy of which is hereunto annexed, marked B.

Third. The plaintiff offered in evidence, resolutions passed by the general assembly of said State, at their session, January, 1841, a copy of which is hereunto annexed, marked C.

Fourth. The plaintiff then offered in evidence, the memorial addressed to said assembly, at said session, by Elisha Dillingham and others, a copy of which is hereunto annexed, marked D.

Fifth. The plaintiff offered evidence to prove, that in the last part of the year 1840, and in the year 1841, associations were formed in many, if not in all, the towns in the State, called "Suffrage Associations," the object of which was to diffuse information among the people upon the question of forming a written republican constitution, and of extending the right of suffrage. To prove this, he offered the officers and members of said associations, also, the declaration of principles of said associations, passed February 7, 1841, and the proceedings of a meeting thereof on the 13th day of April, 1841; and also offered witnesses to prove, that a portion of the people of this State assembled at Providence, on the 17th day of April, 1841, under a call from the Rhode Island suffrage asso-

ciation, to take into consideration certain matters connected with the existing state of suffrage in said State, and to prove the proceedings of said meeting, and this he offered to prove by the testimony of the chairman of said meeting, aud the clerk of the same, and of other persons present thereat, of which proceedings and declaration, resolutions, &c., are hereto annexed, marked E.

Sixth. The plaintiff offered to prove, that on the 5th day of May, A. D. 1841, a mass convention of the male inhabitants of this State, consisting of four thousand and upwards, of the age of twenty-one years and upwards, met at Newport, in said State, in pursuance of notice for that purpose; whereat, among other things, it was resolved by said convention as follows: See copy of said resolutions hereunto annexed, marked F.

Seventh. The plaintiff offered to prove, that the said mass convention at Newport aforesaid, adjourned their meeting from said 5th day of May to the 5th day of July, 1841, to Providence, in said State, at which place and time last mentioned, said convention reassembled, consisting of six thousand persons and upwards, of the age of twenty-one years and upwards, the same being the free male inhabitants of said State, when and where, among other things, it was resolved by said convention as follows: See copy of said resolutions hereunto annexed, and marked G.

Eighth. The plaintiff offered in evidence, certain resolutions of the general assembly of said State, passed at their May session, 1841; also a certain bill (or act) presented by a member of said assembly, at the same session, and the proceedings of said assembly thereupon, copies of which are hereunto annexed, marked H a, H b.

Ninth. The plaintiff offered in evidence, the minority report from the committee on the judiciary, upon the bill or act mentioned in the eighth offer, made to said general assembly, at their June session, A. D. 1841, and the action of said general assembly thereupon; copies of which are hereunto annexed, marked I a, I b.

Tenth. The plaintiff offered to prove, that the said State committee, by virtue of the authority in them vested by the said mass convention, notified the inhabitants of the several towns and of the city of Providence, in this State, to assemble together, and appoint delegates to a convention for the purpose of framing a constitution for this State aforesaid, and that every American male citizen, twenty-one years of age and upwards, who had resided in this State as his home one year preceding the election of delegates, should have the right to vote for delegates to said convention, to draft a constitution to be laid before the people of said State; and that every thousand inhabitants in the towns in said State, should be entitled to one delegate, and each ward in the city of Providence, to three delegates, as appears by the following request duly published and proclaimed; also, an address from said committee to the people of the State. See the copies of said request and address, hereunto annexed, and marked J a, J b.

Eleventh. The plaintiff offered to prove, that the said notice, request,

or call, was duly published and promulgated in public newspapers, printed and published in said State, and by handbills which were stuck up in the public houses, and at various other places of public resort, in all the towns, and in every ward in the city of Providence, in said State.

Twelfth. The plaintiff offered to prove, that at the adjourned mass convention aforementioned, as held at Providence, in said State, on the 5th day of July, A. D. 1841, the people of the State then present, did by vote duly taken enlarge said State committee, by the addition of the following named persons, all citizens of this State, to wit:

Providence county, Henry L. Webster, Philip B. Stiness, Metcalf Marsh.

Newport county, Silas Sisson.

Bristol county, Abijah Luce.

Kent county, John B. Sheldon.

Washington county, Wager Weeden, Chas. Allen.

Thirteenth. The plaintiff offered to prove, that at the meeting of the said State committee, on the 20th day of July, 1841, at Providence aforesaid, when the said notice, request, or call, was ordered, the following members of said committee were present, and approved of the aforesaid call, and of all the proceedings then had, to wit: Samuel H. Wales, Henry L. Webster, Benjamin Arnold, jr., Welcome B. Sayles, Metcalf Marsh, Philip B. Stiness, Dutee J. Pearce, Silas Sissons, Benjamin M. Bosworth, Abijah Luce, Sylvester Himes.

Fourteenth. The plaintiff then offered to prove, that in the month of August, 1841, citizens of this State, qualified as aforesaid, did meet in their several towns, and in the several wards in the said city of Providence, and made choice of delegates in conformity with said notice, to meet in convention to form a draft of a constitution to be laid before the people of this State; and he offered the chairman presiding at said meetings, and the persons acting as clerks of the same, the votes or ballots then and there cast, by the persons voting thereon, and of the persons then and there voting, to prove the aforesaid facts, and to prove the number of citizens so voting.

Fifteenth. The plaintiff offered to prove, that the said delegates did meet in convention, in said city of Providence, in the month of October, 1841, and drafted a constitution, and submitted it to the people of said State for their examination, and then adjourned to meet in said city of Providence, in the month of November, A. D. 1841; and he offered to prove this by the production of the original minutes, or records, of the proceedings of said convention, verified by the oaths of the presidents and secretaries thereof, and of divers persons attending the same, as members thereof, or delegates thereto.

Sixteenth. The plaintiff offered to prove, that in pursuance of said adjournment, the said delegates did again meet in convention, in said Providence, in said month of November, and then completed the draft of the following constitution, (a copy of which is hereunto annexed, marked *K*,) and submitted the same to the people of said State for their adoption or rejection, recommending them to express their will on

the subject, at meetings to be duly presided over by moderators and clerks, and by writing their names upon their tickets, and to be holden in their several towns, and in the several wards of the city of Proidence, on Monday, the 27th day of December, and on the two next successive days; and that any person entitled to vote, who, from sickness or other cause, might be unable to attend and vote in the town or ward meeting, on the days aforesaid, might write his name on a ticket, and obtain the signature upon the back of the same, as a witness thereto, of a person who had given in his vote, which tickets were in the following form, to wit: I am an American citizen, of the age of twenty-one years, and have my permanent residence, or home, in this State; I am (or not) qualified to vote under the existing laws of this State. I vote (for or against) the constitution formed by the convention of the people assembled in Providence, and which was proposed to the people by said convention on the 18th day of November, A. D. 1841; which votes the moderator or clerk of any town or ward meetings, should receive on either of the three days succeeding the three days before named; and which he offered to prove by the production of said original minutes and records as aforesaid, verified as aforesaid, and by the testimony of said persons aforesaid, and by the 14th article of said constitution.

Seventeenth. The plaintiff offered to prove, that meetings were held in the several towns, and wards of the city of Providence aforesaid, and on the days aforesaid, for the purposes aforesaid, in pursuance of the requirements of said constitution; and the said moderators and clerks, did receive on said three successive days, such votes of persons qualified as aforesaid, and then carefully kept and made registers of all the persons voting, which, together with the tickets given in by the voters, were sealed up and returned by said moderators and clerks, with certificates signed and sealed by them, to the secretary of said convention, to be counted, and declared at their adjourned meeting, on the 12th day of January, A. D. 1842; all of which he offered to prove, by the testimony of the several moderators presiding at said meeting, and of the clerks of the same, and of the secretaries of said convention, and by the production of the original votes or ballots, cast or polled by the persons then and there voting, the original registers of all said persons so voting, and the said certificates, signed and sealed as aforesaid, verified by the oaths of said moderators and clerks.

Eighteenth. The plaintiff offered to prove that the said convention of delegates did meet in said Providence on the said 12th day of January, 1842, and did then and there count the said votes; and the said convention thereafterwards, on the said thirteenth day of said January, did pass the preamble and resolutions following, to wit:

"Whereas, by the return of the votes upon the constitution proposed to the citizens of this State by this convention, the 18th day of November last, it satisfactorily appears that the citizens of this State, in their original sovereign capacity, have ratified and adopted said constitution by a large majority; and the will of the people, thus decis[iv]ely made known, ought to be implicitly obeyed and faithfully executed.

We do, therefore, resolve and declare, that said constitution rightfully ought to be, and is, the paramount law and constitution of the State of Rhode Island and Providence Plantations.

And we farther resolve and declare, for ourselves, and in behalf of the people whom we represent, that we will establish said constitution, and sustain and defend the same by all necessary means.

Resolved, That the officers of this convention make proclamation of the return of the votes upon the constitution, and that the same has been adopted, and become the constitution of this State; and that they cause said proclamation to be published in the newspapers of the same.

Resolved, That a certified copy of the report of the committee appointed to count the votes upon the constitution, and of these resolutions, and of the constitution, be sent to his excellency the Governor, with a request that he would communicate the same to the two houses of the general assembly; a copy of which resolutions and proceedings are annexed, marked L c."

And he further offered to prove that the same was sent to said Governor, and by him communicated to the said general assembly, and by them laid on the table; and that, by a subsequent resolution of the house of representatives in said general assembly, the further consideration thereof was indefinitely postponed. All these matters he offered to prove, by the production of the original minutes or records of the convention aforesaid, verified by the oaths of the president, vice presidents, and secretaries thereof; by the report of the committee appointed by said convention to count said votes, verified by the certificate of the secretaries of said convention, and by the oaths of the members of said committee, and by the certificate of Henry Bowen, secretary of State under the then acting government, and of Thomas A. Jenks, one of the clerks of the then house of representatives. And he further offered to prove, that, at the same session of said assembly, a member of the house of representatives submitted to that body, for their action, a resolution referring all the matters connected with the formation and adoption of the aforesaid constitution to a select committee, with instructions to them to ascertain and report the number of votes cast, and the number of persons voting for the same, with full power to send for persons and papers; which resolution was rejected by said house of representatives, as appears by copies of the records of the said house, for said session, hereunto annexed, and marked L a, and the exhibit hereunto annexed, marked L b, and the testimony of witnesses.

Nineteenth. The plaintiff then offered to prove that the officers of said convention did make the proclamation required by the said resolution of the said convention; and he offered to prove this by a copy of said proclamation, certified by said officers, the oaths of said officers, and the testimony of other witnesses. See form of proclamation annexed, marked X.

Twentieth. The plaintiff then offered to prove that the said constitution was adopted by a large majority of the male people of this State, of the age of twenty-one years and upwards, who were qualified to vote under said constitution, and also adopted by a majority of the persons en-

titled to vote for general officers, under the then existing laws of the said State, and according to the provisions thereof; and that so much of the same as relates to the election of the officers named in the sixth section of the fourteenth article of said constitution, on the Monday before the 3d Wednesday of April, A. D. 1842, to wit, on the 18th day of said April, and all the other parts thereof on the first Tuesday of May, 1842, to wit, on the 3d day of said May, and then and there became, and was, the rightful and legal constitution of said State, and paramount law of said State; and this he offered to prove by the production of the original votes or ballots cast or polled by the persons voting for or against the adoption of said constitution, by the production of the original registers of the persons so voting, verified by the oaths of the several moderators and clerks of the meetings held for such votings, by the testimony of all the persons so voting, and by the said constitution.

Twenty-first. The plaintiff produced a copy of said constitution, verified by the certificates of Joseph Joslin, president of said convention of delegates elected and assembled as aforesaid, and for the purposes aforesaid, and of Samuel H. Wales, one of the vice presidents, and of John S. Harris and William Smith, secretaries of the same; and offered the said Joslin, Wales, Harris and Smith, as witnesses to prove the truth of the matters set forth in said certificates; which said copy, upon the proof aforesaid, he claimed to be a true and authenticated copy of said constitution, and which constitution he claimed to be the paramount law of the said State.

Twenty-second. The plaintiff offered to prove, that, by virtue of, and in conformity with, the provisions of said constitution, so adopted as aforesaid, the people of said State entitled to vote for general officers, senators and representatives, to the general assembly of said State, under said constitution, did meet, in legal town and ward meetings, on the third Wednesday of April next preceding the first Tuesday of May, 1842, to wit, on the 18th day of April, 1842, and did elect duly the officers required by said constitution for the formation of the government under said constitution; and that said meetings were conducted and directed according to the provisions of said constitution and the laws of said State; and this he offered to prove by the evidence of the moderators and clerks of said meetings, and the persons present at the same.

Twenty-third. The plaintiff offered in evidence that the said general officers, to wit, the governor, lieutenant governor, secretary of State, senators and representatives, all constituting the general assembly of said State under said constitution, did assemble in said city of Providence on the first Tuesday of May, A. D. 1842, to wit, on the 3d day of May, 1842, and did then and there organize a government for the said State, in conformity with the provisions and requirements of said constitution, and did elect, appoint, and qualify officers to carry the said constitution and laws into effect; and, to prove the same, he offered exemplified copies of the acts and doings of said general assembly, hereunto annexed, and marked N a, N b, N c.

Twenty-fourth. The plaintiff offered in evidence a duly certified copy

of that part of the census of the United States for the year 1840, which applies to the district and State of Rhode Island, &c., hereunto annexed, and marked O.

Twenty-fifth. The plaintiff offered in evidence a certificate signed by Henry Bowen, Secretary of State of the then existing Government of the State of Rhode Island, &c., showing the number of votes polled by the freemen in said State for ten years then last past; a copy of which is hereunto annexed, marked P. Also under the same certificate an act marked Q, purporting to establish martial law.

Twenty-sixth. And the plaintiff offered in evidence an authenticated copy of an act of the general assembly under the Charter Government, passed at their June session, A. D. 1842, entitled "An act to provide for calling a convention of the people," &c., and an act in amendment thereto; which said copy is hereunto annexed, marked Q a. And also a copy of from the records of the house of representatives, (under said government,) at their March session, A. D. 1842, hereunto annexed, marked R.

Whereupon, the counsel for the plaintiff requested the court to charge the jury, that under the facts offered in evidence by the plaintiff, the constitution and frame of government prepared, adopted, and established, in the manner and form set forth and shown thereby, was, and became thereby, the supreme law of the State of Rhode Island, and was in full force and effect, as such, during the time set forth in the plaintiff's writ and declaration, when the trespass alleged therein was committed by the defendants, as admitted in their pleas.

That a majority of the free white male citizens of Rhode Island, of twenty-one years and upwards, in the exercise of the sovereignty of the people, through the forms, and in the manner, set forth in said evidence, offered to be proved by the plaintiff, and in the absence, under the then existing frame of government of the said State of Rhode Island, of any provision therein for amending, altering, reforming, changing, or abolishing, the said frame of government, had the right to reassume the powers of government, and establish a written constitution and frame of a republican form of government; and that having so exercised such right as aforesaid, the pre-existing charter government, and the authority, and the assumed laws under which the defendants in their plea claim to have acted, became null and void and of no effect, so far as they were repugnant to, and conflicted with, said constitution, and are no justification of the acts of the defendants in the premises.

And the court, pro forma, and upon the understandings of the parties to carry up the rulings and exceptions of the said court to the Supreme Court of the United States, refused to give the said instructions, or to admit in evidence the facts offered to be proved by the plaintiff, but did admit the testimony offered to be proved by the defendants; and did rule that the government and laws, under which they assume in their plea to have acted, were in full force and effect as the frame of government and laws of the State of Rhode Island, and did constitute a justification of the acts of the defendants, as set forth in their pleas.

To which refusals of the court, so to instruct the jury as prayed for, as well as to the instructions so as aforesaid given by the court to the jury, the plaintiff, by his counsel, excepted, and prayed the exceptions to be allowed by the court. And after the said instructions were so refused, and so given as aforesaid, the jury withdrew, and afterwards returned their verdict for the defendants.

And inasmuch as the said several matters of law, and the said several matters of fact, so produced and given in evidence on the part of the said plaintiff and the said defendants, and by their counsel insisted on and objected to in manner as aforesaid, do not appear by the record and verdict aforesaid; the said counsel for the plaintiff did then and there propose the aforesaid exceptions to the said refusals and opinions of said court, and requested them to put the seal of said court to this bill of exceptions, containing the said several matters so produced and given in evidence for the party objecting as aforesaid.

And thereupon the judges of the aforesaid court, at the request of the counsel for the party objecting, did put their said seal to this bill of exceptions, the same being found to be true, pursuant to the law in such cases provided, at the term of said court and the trial aforesaid.

JOSEPH STORY. [SEAL.]

Defendants' schedule A.

Constitution of the State of Rhode Island and Providence Plantations, as adopted by the convention assembled at Providence, November, 1841.

We, the people of the State of Rhode Island and Providence Plantations, do ordain and establish this constitution for the government thereof.

ARTICLE FIRST.

Declaration of certain constitutional rights and principles.

In order effectually to secure the religious and political freedom established here by our venerated ancestors, and to preserve the same for their posterity, we do declare that the inherent, essential, and unquestionable rights and principles hereinafter mentioned, among others, shall be established, maintained, and preserved, and shall be of paramount obligation in all legislative, judicial, and executive proceedings.

Section 1. Every person within this State ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it, completely, and without denial, promptly, and without delay, conformably to the laws.

Sect. 2. The right of the people to be secure in their persons, papers, and possessions, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but on complaint, in writing, upon probable cause, supported by oath or affirmation, and describing, as near-

ly as may be, the place to be searched, and the persons or things to be seized.

Sect. 3. No person shall be holden to answer for a capital, or other infamous crime, unless on presentment or indictment by a grand jury, except in cases of impeachment, or such offences as are usually cognizable by a justice of the peace; or in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger. No person shall be tried, after an acquittal, for the same offence.

Sect. 4. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted; and all punishments ought to be proportioned to the offence.

Sect. 5. All persons imprisoned ought to be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety shall require it; nor ever without the authority of the general assembly.

Sect. 6. In all criminal prosecutions, the accused shall enjoy the privilege of a speedy and public trial, by an impartial jury; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining them in his favour: and to have the assistance of counsel in his defence; and be at liberty to speak for himself; nor shall he be deprived of life, liberty, or property, unless by the judgment of his peers, or the law of the land.

Sect. 7. The person of a debtor, where there is not strong presumption of fraud, ought not to be continued in prison, after he shall have delivered up his property for the benefit of his creditors, in such manner as shall be prescribed by law.

Sec. 8. No ex post facto law, or law impairing the obligation of contracts, shall be made.

Sec. 9. No man in a court of common law shall be compelled to give evidence criminating himself.

Sec. 10. Every man being presumed innocent until pronounced guilty by the law, all acts of severity, that are not necessary to secure an accused person, shall be repressed.

Sec. 11. The right of trial by jury shall remain inviolate.

Sec. 12. Private property shall not be taken for public uses without just compensation.

Sec. 13. The citizens shall continue to enjoy and freely exercise the rights of fishery, and all other rights to which they have been heretofore entitled under the charter of this State, except as is herein otherwise provided.

Sec. 14. The military shall always be held in strict subordination to the civil authority.

Sec. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in manner to be prescribed by law.

Sec. 16. The liberty of the press being essential to the security of freedom in a State, any person may publish his sentiments on any subject, being responsible for the abuse of that liberty; and in all trials for libels, both civil and criminal, the truth, unless published from malicious motives, shall be a sufficient defence to the person charged.

Sec. 17. The citizens have a right, in a peaceable manner, to assemble for their common good, and to apply to those invested with the powers of government for redress of grievances, or other purposes, by petition, address, or remonstrance.

Sec. 18. The right of the people to keep and bear arms shall not be infringed.

Sec. 19. Slavery shall not be tolerated in this State.

Sec. 20. Whereas Almighty God hath created the mind free; and all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend to beget habits of hypocrisy and meanness; and whereas a principal object of our venerable ancestors in their migrations to this country, and their settlement of this State, was, as they expressed it, to hold forth a lively experiment, that a flourishing civil state may stand, and be best maintained, with full liberty in religious concernments: we therefore declare, that no man shall be compelled to frequent or support any religious worship, place, or ministry whatever; nor enforced, restrained, molested, or burthened in his body or goods; nor disqualified from holding any office; nor otherwise suffer, on account of his religious belief. And that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion; and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

Sec. 21. The enumeration of the foregoing rights shall not be construed to impair or deny others retained by the people.

Article second.—Of the right of suffrage.

Section 1. Every person who is now a freeman, and qualified voter, shall continue to be so, so long as he retains the qualifications upon which he was admitted.

Sec. 2. Hereafter, every white male native citizen of the United States, or any territory thereof, of the full age of twenty-one years, who shall have had his actual permanent residence and home in this State for the period of one year, and in the town or city in which he may claim a right to vote, six months next preceding the time of voting, and shall be seized in his own right of a freehold real estate in such town or city, of the value, at least, of one hundred and thirty-four dollars, over and above all incumbrances, shall therefrom have a right to vote in the election of all civil officers, and in all questions in all legal town or ward meetings.

Sec. 3. Every white male native citizen of the United States, or any territory thereof, of the full age of twenty-one years, who shall have had his actual permanent residence and home in this State for the period of two years, and in the town or city in which he may claim a right to vote six months next preceding the time of voting, shall have a right to

vote in the election of all civil officers, and on all questions, in all legal town or ward meetings: Provided, however, that no person who is not now a freeman, shall be allowed to vote upon any motion to impose a tax, or incur expenditures, in any town or city, unless he possess the freehold qualification required by this article, or shall have been taxed on property valued, at least, at one hundred and fifty dollars, within one year from the time he may offer to vote, and shall have paid such tax in said town or city.

Sec. 4. Any white male native of any foreign country of the full age of twenty-one years, naturalized in the United States according to law, who shall have had his actual permanent residence and home in this State for the period of three years after his naturalization, and in the town or city in which he may claim a right to vote six months next preceding the time of voting, and shall be seized in his own right of a freehold real estate, in such town or city, of the value, at least, of one hundred and thirty-four dollars, over and above all incumbrances, shall therefrom have a right to vote in the election of all civil officers, and in all questions in all town or ward meetings. But no person in the military, naval, marine, or any other service of the United States, shall be considered as having the required residence by reason of being employed in any garrison, barrack, or military or naval station in this State. And no pauper, lunatic, or person non compos mentis, or under guardianship, shall be permitted to vote; nor shall any person convicted of any crime, deemed infamous at common law, be permitted to exercise that privilege until he be restored thereto by the general assembly. Persons residing on land ceded by the State to the United States shall not be entitled to exercise the privilege of electors during such residence.

Sec. 5. The general assembly shall, as soon as may be after the adoption of this constitution, provide for the registration of voters; and shall also have full power generally to enact all laws necessary to carry this article into effect, and to prevent abuse and fraud in voting.

Sec. 6. All persons entitled to vote shall be protected from arrest in civil cases on the days of election, and on the day preceding and the day following an election.

Sec. 7. In the city of Providence, and all other cities, no person shall be eligible to the office of mayor, alderman, or common councilman, who is not qualified to vote upon a motion to impose a tax or incur expenditures as herein provided.

Sec. 8. The general assembly shall have power to provide, by special or general laws, for the admission of any native male citizen of the United States, or any territory, who shall have had his permanent residence and home in this State for two years, but who is not otherwise qualified under this article to vote on such conditions as they may deem proper, except for taxes and expenditures.

Article third.—Of the distribution of powers.

The powers of the government shall be distributed into three distinct branches: the legislative, executive, and judicial.

Article fourth.—Of the legislative power.

Section 1. This constitution shall be the supreme law of the State, and all laws inconsistent therewith shall be void. The general assembly shall pass all such laws as are necessary to carry this constitution into effect.

Sec. 2. The legislative power, under this constitution, shall be vested in two distinct houses or branches, each of which shall have a negative on the other; the one to be styled the senate, the other the house of representatives, and both together, the general assembly. The style of their laws shall be: It is enacted by the general assembly, as follows.

Sec. 3. There shall be one session of the general assembly holden annually at Newport, on the first Tuesday of May; and one other annual session to be holden on the last Monday of October, once in two years, at South Kingston, and the intermediate years alternately at Bristol and East Greenwich; and the adjournment from the October session shall be holden at Providence.

Sec. 4. No member of the general assembly shall take any fees, or be of counsel in any case pending before either branch of the general assembly, under penalty of forfeiting his seat, upon due proof thereof to the satisfaction of the branch of which he is a member.

Sec. 5. The person and estate of every member of the general assembly shall be free and exempt from all process in any civil action during the session of the general assembly, and for two days before the commencement, and after the termination, thereof. And all process served contrary hereto shall be void; and for any speech in debate, in either house, no member shall be questioned in any other place.

Sec. 6. Each house shall be the judge of the elections and qualifications of its members; and a majority shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each house may prescribe.

Sec. 7. Each house may determine the rules of proceeding, punish contempts, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

Sec. 8. Each house shall keep a journal of its proceedings. The yeas and nays of the members of either house shall, at the desire of one-fifth of those present, be entered on the journal.

Sec. 9. Neither house shall, during a session, without the consent of the other, adjourn for more than two days, nor to any other place than that in which they may be sitting.

Sec. 10. The general assembly shall continue to exercise the judicial power, the power of visiting corporations, and all other powers they have heretofore exercised, not inconsistent with this constitution.

Sec. 11. The general assembly shall regulate the compensation of the governor, and other officers elected by general ticket, or by the general assembly, and of the members of the general assembly, subject to the limitations contained in this constitution.

Sec. 12. All lotteries shall hereafter be prohibited in this State, except those already authorised by the general assembly.

Sec. 13. The general assembly shall have no power, hereafter, to incur State debts to an amount exceeding fifty thousand dollars, except in time of war, or in case of invasion, without the express consent of the people, nor in any case without such consent to pledge the faith of the State for the payment of the obligations of others. This section shall not be construed to refer to any money that may be deposited with this State by the Government of the United States.

Sec. 14. The assent of two-thirds of the members elected to each branch of the general assembly, shall be required to every bill appropriating the public moneys or property for local or private purposes.

Sec. 15. The general assembly shall, from time to time, provide for making new valuations of property for the assessment of taxes, in such manner as they may deem best. No direct State tax shall be assessed on the rateable property of the State, before a new estimate of such property shall be taken.

Sec. 16. Whenever a direct tax is laid by the State, one-sixth part thereof shall be assessed on the polls of the qualified electors; provided, that the tax on a poll shall never, in any one tax, exceed the sum of fifty cents.

Sec. 17. The general assembly may provide, by law, for the continuance in office of any officers of annual appointment, until other persons are qualified to take their places.

Article fifth.—Of the house of representatives.

Section 1. The house of representatives shall consist of members elected by the electors of the several towns and cities, in the respective town and ward meetings. Each town or city having four thousand inhabitants, and under six thousand five hundred, shall be entitled to elect three representatives; each town or city having six thousand five hundred inhabitants, and under ten thousand, shall be entitled to elect four representatives; each town or city having ten thousand inhabitants, and under fourteen thousand, shall [be] entitled to elect five representatives; each town or city having fourteen thousand inhabitants, and under eighteen thousand, shall be entitled to elect six representatives; each town or city having eighteen thousand inhabitants, and under twenty-two thousand, shall be entitled to elect seven representatives: each town or city having over twenty-two thousand inhabitants, shall be entitled to elect eight representatives. But no town or city shall be entitled to elect more than eight representatives; and every town or city shall be entitled to elect two. The representation of the several towns and cities in this State shall be apportioned agreeable to the last census of the people of the United States, preceding the election.

Sec. 2. The house of representatives shall have authority to elect its speaker, clerks, and other officers. The oath of office shall be administered by the Secretary of State, or in his absence, by the attorney general. The clerks shall be engaged by the speaker.

Sec. 3. Whenever the seat of a member of the house of representatives shall be vacated by death, resignation, or otherwise, the vacancy may be filled by a new election.

Sec. 4. The senior member from the town of Newport, present, shall preside in the organization of the house.

Article sixth.—Of the senate.

Section 1. The senate shall consist of nineteen members, to be chosen annually by the majority of electors, by districts. The State shall be divided into sixteen districts, as follows:

First. The town of Newport shall constitute the first senatorial district, and shall be entitled to elect two senators.

Second. The towns of Portsmouth, Middletown, Tiverton, Little Compton, New Shoreham, and Jamestown, shall constitute the second senatorial district, and shall be entitled to elect two senators.

Third. The city of Providence shall constitute the third senatorial district, and shall be entitled to elect two senators.

Fourth. The town of Smithfield shall constitute the fourth senatorial district, and shall be entitled to elect one senator.

Fifth. The towns of Cumberland and North Providence shall constitute the fifth senatorial district, and shall be entitled to elect one senator.

Sixth. The towns of Scituate, Cranston, and Johnston, shall constitute the sixth senatorial district, and shall be entitled to elect one senator.

Seventh. The towns of Glocester, Foster, and Burrillville, shall constitute the seventh senatorial district, and shall be entitled to elect one senator.

Eighth. The town of South Kingston shall constitute the eighth senatorial district, and shall be entitled to elect one senator.

Ninth. The towns of Westerly and Charlestown shall constitute the ninth senatorial district, and shall be entitled to elect one senator.

Tenth. The towns of Hopkinton and Richmond shall constitute the tenth senatorial district, and shall be entitled to elect one senator.

Eleventh. The towns of North Kingston and Exeter shall constitute the eleventh senatorial district, and shall be entitled to elect one senator.

Twelfth. The town of Bristol shall constitute the twelfth senatorial district, and shall be entitled to elect one senator.

Thirteenth. The towns of Warren and Bennington shall constitute the thirteenth senatorial district, and shall be entitled to elect one senator.

Fourteenth. The towns of East Greenwich and West Greenwich shall constitute the fourteenth senatorial district, and shall be entitled to elect one senator.

Fifteenth. The town of Coventry shall constitute the fifteenth senatorial district, and shall be entitled to elect one senator.

Sixteenth. The town of Warwick shall constitute the sixteenth senatorial district, and shall be entitled to elect one senator.

And no more than one senator shall be elected from any town for the same term, in the second senatorial district.

Sec. 2. The lieutenant governor shall, ex officio, be a member of the senate. The secretary of State shall be, by virtue of his office, secretary of the senate, unless otherwise provided by law, and the senate may elect such other officers as they may deem necessary.

Sec. 3. If, by reason of death, resignation, or absence, there be no governor or lieutenant governor present, to preside in the senate, the senate shall elect one of their own number to preside, until the governor or lieutenant governor returns, or until one of said offices is filled according to this constitution; and until such election is made by the senate, the secretary of State shall preside.

Article seventh.—Of impeachments.

Section 1. The house of representatives shall have the sole power of impeachment.

Sec. 2. All impeachments shall be tried by the senate; and when sitting for that purpose, they shall be under oath or affirmation. No person shall be convicted, except by vote of two-thirds of the members elected. When the governor is impeached, the chief or presiding justice of the supreme judicial court, for the time being, shall preside, with a casting vote in all preliminary questions.

Sec. 3. The governor, and all other executive and judicial officers, shall be liable to impeachment; but judgment in such cases shall not extend further than to removal from office. The party convicted shall, nevertheless, be liable to indictment, trial, and punishment, according to law.

Article eighth.—Of the executive power.

Section 1. The chief executive power of this State shall be vested in a governor.

Sec. 2. The governor shall take care that the laws be faithfully executed.

Sec. 3. He shall be captain general and commander-in-chief of the military and naval forces of this State, except when they shall be called into the service of the United States.

Sec. 4. He shall have power to grant reprieves, after conviction, in all cases except those of impeachment, until the end of the next session of the general assembly, and no longer.

Sec. 5. The person filling the office of governor shall preside in the senate and in grand committee, and shall have a right, in case of equal division, to vote—not otherwise.

Sec. 6. He may fill vacancies in office, not otherwise provided for by this constitution or by law, until the same shall be filled by the general assembly, or by the people.

Sec. 7. In case of disagreement between the two houses of the general assembly, respecting the time or place of adjournment, certified to him by either, he may adjourn them to such time and place as he shall think proper; provided, that the time of adjournment shall not be extended beyond the day of the next stated session.

Sec. 8. He may, on special emergencies, convene the general assembly at any town in this State, at any time not provided for by law; and in case of danger from the prevalence of epidemic or contagious diseases, in either of the places in which the general assembly may by law meet, or to which they may have been adjourned, or from other circumstances, he may, by proclamation, convene said assembly at any other place within this State.

Sec. 9. All commissions shall be in the name and by authority of the State of Rhode Island and Providence Plantations—shall be sealed with the State seal, signed by the governor, and attested by the secretary.

Sec. 10. In case of the death, resignation, refusal or inability to serve, or removal from office of the governor, or of his impeachment or absence from the State, the lieutenant governor shall exercise the powers and authority appertaining to the office of governor, until another be chosen at the next annual election for governor, and be duly qualified, or until the governor, impeached or absent, shall be acquitted or return.

Sec. 11. If the offices of governor and lieutenant governor be both vacant by reason of death, resignation, absence, or otherwise, the person entitled to preside over the senate for the time being, shall in like manner administer the government, until he be superseded by a governor or lieutenant governor.

Sec. 12. The compensation of the governor and lieutenant governor shall be established by law, and shall not be diminished during the term for which they were elected.

Sec. 13. The duties and powers of the secretary, attorney general, and general treasurer, shall be the same under this constitution, as are now established, or from time to time may be prescribed by law.

Article ninth.—Of elections.

Section 1. The governor, lieutenant governor, senators, representatives, secretary of State, attorney general, and general treasurer, shall be elected at the town, city, or ward meetings, to be holden on the third Wednesday of April annually, and shall severally hold their offices for one year, from the first Tuesday in May next succeeding their election, and until others are legally chosen and duly qualified to fill their places.

Sec. 2. The voting for all officers chosen by the people, except town or city officers, shall be by ballot, in manner to be regulated by law. Town or city officers shall be chosen by ballot, on demand of any two persons entitled to vote for the same.

Sec. 3. The names of the persons voted for as governor, lieutenant governor, secretary of State, general treasurer, and attorney general, shall be put upon one ticket, and the tickets shall be deposited by the moderator or warden in a box by themselves. The names of the persons voted for as senators and as representatives, shall be put upon separate tickets, and the tickets shall be deposited by the moderator or warden in separate boxes. The polls for all the officers named in this section shall be opened at the same time.

Sec. 4. All the votes given for governor, lieutenant governor, secretary

of State, general treasurer, and attorney general, and also for senators, shall remain in the ballot boxes till the polls are closed. These votes shall then, in open town and ward meetings, be taken out and sealed in separate envelopes by the moderators and town clerks, and by the wardens and ward clerks, who shall certify the same, and forthwith deliver or send them to the secretary of State, whose duty it shall be securely to keep the same, and to deliver the votes for general officers to the speaker of the house of representatives, after the house shall be organized, at the May session of the general assembly. The votes last named shall, without delay, be opened, counted, and declared, in such manner as the house of representatives shall direct. The votes for senators shall be counted by the governor and secretary of State, within seven days from the day of election; and the governor shall give certificates to the senators who are elected.

Sec. 5. The votes for representatives in the several towns, after the polls are declared to be closed for the same, shall be counted by the moderators and clerks, who shall announce the result, and give certific tes to the persons elected. If there be no election, or not an election of the whole number of representatives to which the town is entitled, the polls for representatives may be reopened, and the like proceedings shall be had until an election shall take place: provided, however, that an adjournment or adjournments of the election may be made to a time not exceeding seven days from the first meeting.

Sec. 6. In the city of Providence and other cities, the polls for representatives shall be kept open during the whole time of voting for the day; and the votes in the several wards shall be sealed up, at the close of the meeting, by the wardens and ward clerks, in open ward meeting, and delivered to the city clerk. The mayor and aldermen of said city or cities, shall proceed to count said votes within two days from the day of election, and if no election, or an election of only a portion of the representatives shall have taken place, the mayor and aldermen shall order a new election, to be held not more than ten days from the day of the first election, and so on till the election of representatives shall be completed. Certificates of election shall be furnished by the city clerks to the persons chosen.

Sec. 7. If no person shall have a majority of votes for the office of governor, or lieutenant governor, the senate and house of representatives, in grand committee, may choose one by ballot from the two persons having the highest number of votes.

Sec. 8. In case an election of the secretary of State, attorney general, or general treasurer, should fail to be made by the electors at their annual election, the vacancy or vacancies, shall be filled by the general assembly in grand committee, from the two candidates for such office having the greatest number of the votes of the electors. Or, in case of a vacancy in either of said offices, from other causes, between the sessions of the general assembly, the governor shall appoint some person to fill the same, until a successor elected by the general assembly is qualified to act; and in such case, and also in all other cases of vacancies not

otherwise provided for, the general assembly may fill the same in any manner they may deem proper.

Sec. 9. If there be no choice of a senator or senators at the annual election, or if a vacancy in the senate occur from any other cause, the governor shall issue his warrant to the town and ward clerks of the several towns and cities, in the senatorial district or districts, that may have failed to elect; or where such vacancy may have occurred, requiring them to open town or ward meetings for another election, on a day to be by him appointed, not more than fifteen days from the time of issuing such warrant; and in such election, a plurality of votes shall elect.

Sec. 10. All general officers shall take the following engagement before they act in their respective offices, to wit: You being by the free vote of the freemen of this State of Rhode Island and Providence Plantations, elected unto the place of do solemnly swear (or affirm,) to be true and faithful unto this State, and to support the constitution of this State, and of the United States; that you will faithfully and impartially discharge all the duties of your aforesaid office, to the best of your abilities, according to law: so help you God. Or, this affirmation you make and give, upon the peril of the penalty of perjury. And the members of the general assembly shall take an engagement to the same effect.

Sec. 11. In all elections held by the people under this constitution, a majority of all the electors voting shall be necessary to the choice of the persons voted for, except as is herein otherwise provided.

Sec. 12. The officers now elected in grand committee, except justices of the peace, shall continue to be so elected, until otherwise prescribed by law.

Sec. 13. The oath or affirmation shall be administered to the governor, lieutenant governor, and senators, by the speaker of the house of representatives, in presence of the house; or elsewhere, by a justice of the supreme judicial court. The secretary of State, attorney general, and general treasurer, shall be engaged, by the person exercising the office of governor.

Article tenth—Of qualifications for office.

Section 1. No person shall be qualified to hold the office of governor, lieutenant governor, senator or representative in the general assembly, unless he be a duly qualified elector. No person shall be elected representative to the general assembly, or to any town or city office, unless he be a qualified elector, and inhabitant of the town or city which elects him.

Sec. 2. Every person shall be disqualified from holding any office to which he may have been elected, if he be convicted of having offered, or procured any other person to offer, any bribe to secure his election, or the election of any other person.

Sec. 3. The judges of all the courts, and all other officers, both civil and military, shall be bound by oath or affirmation, to support this constitution and the Constitution of the United States.

Sec. 4. No person who holds any office under the government of the United States, or any other State or foreign country, shall be capable of acting as a general officer, or shall take a seat in the general assembly, unless at the time of taking his engagement, he shall have resigned his office under such other government. And if any general officer, senator, representative, or judge, shall, after his election, accept, or hold any office under any other government, he shall not be capable thereafter of acting as a general officer, senator, representative, or judge, but the office shall be thereby vacated.

Article eleventh—of the judicial power.

Section 1. The judicial power of this State, shall be vested in one supreme judicial court, and in such inferior courts, as the general assembly may from time to time ordain and establish; and the jurisdiction of the supreme and of all other courts may, from time to time, be regulated by the general assembly.

Sec. 2. Chancery powers may be conferred by the general assembly on the supreme judicial court; but no other court exercising chancery powers shall be established in this State, except as is now provided by law.

Sec. 3. The justices of the supreme judicial court shall be elected in grand committee of the two houses, to hold their offices until their places be declared vacant by a resolution of the general assembly to that effect; which shall be voted for by a majority of all the members elected to the house in which it may originate, and be concurred in by the same majority of the other house. Such resolution shall not be entertained at any other than the annual session for the election of public officers; and in default of the passage thereof at said session, the judge or judges shall hold his or their places, as is herein provided. But a judge of this, or of any other court inferior to the same, shall be removable from office, if upon impeachment he shall be found guilty of any official misdemeanor.

Sec. 4. In case of vacancy by the death, resignation, refusal, or inability to serve, or absence from the State of a judge of this court, his place may be filled by the grand committee, until the next annual election; when the judge elected shall hold his office as before provided.

Sec. 5. The judges of the supreme judicial court shall receive a suitable compensation for their services, which shall not be diminished during their continuance in office.

Sec. 6. The judges of the supreme judicial court shall, in all trials, instruct the jury in the law.

Sec. 7. There shall be annually elected by each town, and by the several wards in the city of Providence, a sufficient number of justices of the peace or wardens, resident therein, with such jurisdiction as the general assembly may prescribe. And said justices or wardens, except in the towns of New Shoreham and Jamestown, shall be commissioned by the governor.

Sec. 8. The courts of probate in this State, excepting the supreme judicial court, shall remain as at present established by law, until the general assembly shall otherwise prescribe.

Article twelfth—Of education.

Section 1. The diffusion of knowledge, as well as of virtue, among the people, being essential for the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools, and to adopt all other means to secure to the people the advantages and opportunities of education, which they may deem necessary and proper.

Section 2. The money which now is, or which may hereafter be, appropriated by law for the formation of a permanent fund for the support of public schools, shall be securely invested, and remain a perpetual fund for that purpose.

Sec. 3. All donations for the support of public schools, or for other purposes of education, which shall be received by the general assembly, shall be applied according to the terms prescribed by the donors.

Sec. 4. The general assembly shall make all necessary provisions, by law, for carrying this article into effect. They are prohibited from diverting said moneys or fund from the aforesaid uses, and from borrowing, appropriating, or using the same, or any part thereof, for any other purpose, under any pretence whatsoever.

Article thirteenth—Of amendments.

The general assembly may propose amendments to this constitution by the votes of a majority of all the members elected to each house. Such propositions shall be published in the newspapers, and printed copies of said propositions shall be sent by the secretary of State, with the names of all the members who shall have voted thereon, with the yeas and nays, to all the town and city clerks in the State; and the said propositions shall be, by said clerks, inserted in the warrants or notices by them issued, for warning the next annual town and ward meetings in April; and the clerks shall read said propositions to the electors, when thus assembled, with the names of all the representatives and senators who shall have voted thereon, with the yeas and nays, before the election of representatives and senators shall be had. If a majority of all the members elected to each house, at said annual meeting, shall approve any proposition thus made, the same shall be published and sent to the electors in the mode provided in the act of approval; and, if then approved by three-fifths of the electors of the State present, and voting thereon, in town and ward meetings, it shall become a part of the constitution of the State.

Article fourteenth—Of the adoption of this constitution.

Section 1. This constitution, if adopted, shall go into operation on the first Tuesday in May, in the year one thousand eight hundred and forty-two. The first election of governor, lieutenant governor, secretary of State, attorney general, and general treasurer, and of representatives and

senators, under said constitution, shall be had on the third Wednesday of April next preceding. And the town and ward meetings therefor shall be warned and conducted as is now provided by law. All civil, judicial, and military officers now elected, or who shall hereafter be elected by the general assembly, or other competent authority, before the said first Tuesday of May, shall hold their offices, and may exercise their powers, until that time, or until their successors are qualified to act. All statutes, public and private, not repugnant to this constitution, shall continue in force until they expire by their own limitation, or are repealed by the general assembly. All charters, contracts, judgments, actions, and rights of action, shall be as valid as if this constitution had not been made. The present government shall exercise all the powers with which it is now clothed until the said first Tuesday of May, one thousand eight hundred and forty-two, and until their successors, under this constitution, are duly elected and qualified.

Sec. 2. All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the State as if this constitution had not been formed.

Sec. 3. The supreme judicial court, established by this constitution, shall have the same jurisdiction as the supreme judicial court at present established, and shall have jurisdiction of all causes which may be appealed to, or pending in the same; and shall be held at the same times and places, and in each county, as the present supreme judicial court, until otherwise prescribed by the general assembly.

Sec. 4. The towns of Jamestown and New Shoreham shall continue to enjoy the exemptions from military duty which they now enjoy, until otherwise prescribed by law.

Done in convention, Feb. 19, 1842.

Signed. HENRY Y. CRANSTON,
President of the Convention.

THOMAS A. JENCKES, *Secretary.*
WALTER W. UPDIKE, *Assistant Secretary.*

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
SECRETARY'S OFFICE, *February*, 1842.

The foregoing is a true copy of the original roll deposited in the secretary's office.

Witness: HENRY BOWEN, *Sec'y.*

State of Rhode Island and Providence Plantations:

In convention, February 19th, A. D. 1842.

Resolved, That the constitution framed by this convention be certified by the president and secretaries, and, with the journal and papers of the convention, shall be deposited in the office of the secretary of State; that the secretary of State cause said constitution, together with this resolution, and all the acts and resolutions of the general assembly relating to this convention, to be printed and distributed according to law; and that said constitution be submitted to all the people authorized to vote for

general officers under the same, for their ratification or rejection, at town and ward meetings, to be holden in the several towns, and in the city of Providence, on Monday, Tuesday and Wednesday, the twenty-first, twenty-second and twenty-third days of March, A. D. 1842. The several town and city clerks shall issue the necessary warrants for said meetings. Said meetings shall be kept open, for the reception of votes, from the hour of nine o'clock in the forenoon until seven o'clock in the afternoon; and in the city of Providence, and town of Newport, until nine o'clock in the evening, on the days appointed. At said town and ward meetings every person voting shall have his name written on the back of his ballot; and said ballots shall be sealed up, in open town or ward meetings, and, with lists of the names of the voters, shall be returned to the general assembly at their session to be holden on the fourth Monday of March next.

Read and adopted, February 19, 1842.

THOMAS A. JENCKES, *Sec'y.*

True copy of the original resolution deposited in the office of the secretary of State.

Witness: HENRY BOWEN, *Sec'y.*

Plaintiff's schedules.

Schedule A.

Proceedings of a convention of delegates of the freemen of the State of Rhode Island and Providence Plantations, met for the purpose of ratifying the Constitution of the United States, May 29, A. D. 1790, as follows: See Elliott's Debates, page 223.

We, the delegates of the people of the State of Rhode Island and Providence Plantations, duly elected, and met in convention, having maturely considered the Constitution for the United States of America, agreed to on the 17th day of September, in the year 1787, by the convention then assembled at Philadelphia, in the commonwealth of Pennsylvania, (a copy whereof precedes these presents,) and having also seriously and deliberately considered the present situation of this State, do declare and make known—

First. That there are certain natural rights, of which men, when they form a social compact, cannot deprive or divest their posterity, among which are the enjoyment of life and liberty, with the means of acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety.

Second. That all power is naturally vested in, and consequently derived from, the people; that magistrates therefore are their trustees and agents, and at all times amenable to them.

Third. That the powers of government may be re-assumed by the people, whensoever it shall become necessary to their happiness.

Fourth. That elections of representatives in legislature ought to be free and frequent, and all men having sufficient evidence of permanent common interest with, and attachment to, the community ought to have

the right of suffrage; and no aid, charge, tax, or fee can be set, rated, or levied upon the people without their own consent, or that of their representatives so elected, nor can they be bound by any law to which they have not in like manner consented for the public good.

That all power of suspending laws, or the execution of laws, by any authority without the consent of the representatives of the people in the legislature, is injurious to their rights, and ought not to be exercised.

That no freeman ought to be taken, imprisoned, or *dissized* from his freehold liberties, privileges, or francises, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the trial by jury, or by the law of the land.

That every freeman ought to obtain right and justice freely and without sale, completely and without denial, promptly and without delay; and that all establishments and regulations contravening these rights, are oppressive and unjust.

That every person has a right to be secure from all unreasonable searches and seizures of his person, his papers, or his property.

That the people have a right peaceably to assemble together to consult for their common good, or to instruct their representatives; and that every person has a right to petition or apply to the legislature for redress of grievances.

That the people have a right to keep and bear arms.

Under these impressions, and declaring that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid are consistent with the said constitution, and in confidence that the amendments hereafter mentioned will receive an early and mature consideration, and conformably to the fifth article of said constitution speedily become a part thereof—

We, the said delegates, in the name and in the behalf of the people of the State of Rhode Island and Providence Plantations, do by these presents assent to, and ratify the said constitution.

Schedule B.

Report of the committee on the subject of an extension of suffrage.

The committee, to whom were referred certain memorials having for their object an extension of the right of suffrage to all white male residents of the age of twenty-one years and upwards, who shall pay taxes or train in the militia, ask leave to report:

That they find nothing in these memorials either of facts or reasoning, which requires the attention of the house. If there is any thing noticeable in them, it is the little sence of propriety manifested in the style in which they were drawn up. The committee have not thought it necessary to enquire particularly how many of the signers are native citizens of the State, but they are sufficiently informed to be satisfied, that a very great proportion of them are not so, and it is illy calculated to produce a favorable opinion of their qualifications, (of those of them, rather, who knew what they were signing, who, on such occasions, are very few,)

that persons who have adventured, and are every day adventuring among us from other States or countries to better their conditions, who enjoy in common with ourselves all the protection and benefit of our equal laws, and upon whose departure there is no restraint, should still [?] restless and dissatisfied unless they can introduce here the political systems of the States they have left, and in recommending those systems, should think themselves at liberty to denounce the whole race of our ancestors, as well as the present freemen of the State and their government, as enemies to freedom and republicanism, and as having sacrificed justice and principle to self-interest. Without troubling the house with any further mention of these memorials, the committee recommend that the memorialists have leave to withdraw them.

The people of this State, we are convinced, have no intention to change the character of their government by introducing a new and untried system of suffrage by us untried, and tried by others only to manifest its mischievous effects, and the fallacy of the principle upon which it is predicated in the place of ancient institutions adopted by our forefathers among the fundamental principles of their association, and since to the present times preserved and practised upon as the basis of our elective government.

But as several of the towns by their instructions to their representatives have manifested some apprehensions and uneasiness upon this occasion, and considering especially, that no longer than the elective franchise is preserved in its purity can the people hope to retain in their own hands the power to protect themselves in the enjoyment of any of their other rights, the committee will proceed to enquire into the source from which that franchise is derived, the basis upon which it rests, or ought to rest, and the dangers to which it is most exposed.

The committee are confident that they shall express the sentiments of the house, when they affirm that the right of suffrage, as it is the origin and basis of every free elective government, so it is the peculiar and exclusive prerogative of the people, and cannot, without infringing that prerogative, be subjected to any other control than that of the people themselves. If representatives of the people, chosen for the ordinary purposes of legislation, could assume a control over this right to limit, control, or extend it at will, they might, on the one hand, disfranchise any portion they pleased of their own electors, might deprive them of the power ever to remove them, and thus reduce the government to a permanent aristocracy. Or should they take the opposite course, and degrade the 'lective franchise by stripping it of all its necessary qualifications and guards, then, instead of its remaining a great privilege and security, possessed by the sound part of the community, it would become an instrument in the hands of faction, leading straightway to anarchy, and ultimately to despotism. A state in which the elective franchise can be thus control[ed] by any power out of the people, cannot, with any truth, be called republican. It is nothing to say that a legislature, chosen by the people, will, it is to be presumed, act with discretion, and with a view to the interests of the people; so may an absolute monarch

rule wisely, and devote himself to the welfare of the State, but *they are not a free people who hold their rights at the discretion of others, one or more.*

The principle would remain the same, whether there be written constitutions or not. The rights of the people are not derived from constitutions, nor are they to be encroached upon, because the people may not think it necessary to attempt to guard them by means of such instruments, which, after all, very indifferently effect the object for which they are intended. They are, on the contrary, by false or forced constructions, always perverted to justify the assumption of dangerous powers, which the people never meant to grant.

We would not be understood as intimating that this State has no written constitution. The instrument, which we place at the head of all our digests of the laws, is not the less our constitution, because its name furnishes a theme for cavillers. The people have always held it as their constitution, and have more than once manifested their satisfaction with it. It was framed and agreed upon, as it purports to have been, by the purchasers, proprietors, and settlers of the State, and its character, as their work, was not at all changed by its having been put into the form of a charter. At that time, the people being colonists, could not avoid submitting to have the usual reservations, expressive of their royal prerogative, ingrafted into it, but independent of these appendages, it was wholly the work of the people and was purely republican.

The whole power of self-government was in their own hands; no constitution, before or since the revolution, has been framed, nor can one be framed, more free and popular. Our separation from the mother country perfected this constitution by cancelling the conditions and reservations under which we hold it, and leaving the work of the people entire. Let strangers, if they please, treat this instrument with levity, and hold it up as a reproach to the State, for the sage reason that it was originally called a *charter*, but let us continue to be proud of it, as a lasting monument of the free, manly, and enlightened spirit of our forefathers, who could, at so early a day, and while colonists, frame, adopt, and obtain the conformation of a constitution of self-government so perfectly republican, and by which all the natural, civil, and political rights, privileges, of themselves and their posterity, were so amply and completely asserted and secured. It is a striking evidence of the stability of the people of this State, that they have not been infected with the rage of the times for constitution making, and that they have continued to hold the wise institutions of their ancestors in too high respect lightly to change them for new models of constitutions, which have nothing peculiar to recommend them, except the unsubstantial allurement of being framed after the revolution.

The earliest acts of every society necessarily mark out the true limits of the elective franchise, and designate those who are qualified to take part in the conduct of their affairs. Not women, or minors, or defendants, not persons incompetent, or persons having no estates, but those

proprietors only, who are concerned and interested in the business to be transacted, and competent to transact it.

These are the original freemen, and from this source the right of suffrage is derived. Thus our ancestors, the purchasers, proprietors, and settlers of the State, upon their arrival here, by their own act, incorporated themselves into a body politic, elected at first their judge and elders, and afterwards their governors, and assistants, and other officers. They, at the same time, adopted a resolution, that none should be received as inhabitants or freemen, but by consent of the body; and by a unanimous agreement, ordained and declared their goverment to be "democratic, or popular government; that is to say," (using their own language,) "it is in the power of the body of freemen orderly assembled, or the major part of them, to make or constitute just laws by which they will be regulated, and to depute from among themselves such ministers as shall see them faithfully executed between man and man." And as others came to join them, and by permission purchased lands, they, from time to time, admitted to the elective franchise such of them as "upon orderly presentation, were found meet for the service of the body, and no just exception against them." Such as proved themselves unworthy they suspended or discharged, and again reinstated such of them as gave proof of better conduct, and none but those regularly admitted freemen were allowed to take any part in the affairs of the government, although it appears from the separate lists kept of freemen and of inhabitants, that there were many of the latter not admitted.

These were the acts of the freemen proprietors of Rhode Island, and in the year sixteen hundred and forty seven, the towns of Providence and Warwick came into union with them, and agreed to the model of government thus established. In sixteen hundred sixty-two–three, the united body, styling themselves the purchasers and free inhabitants of R. Island and Providence Plantations, seized and possessed by purchase and consent *of the* of the natives, to their full content of all its lands, islands, rivers, harbors, and roads, collected and brought into the form of a constitution, the principal ordinances of government, they had before, from time to time adopted, and obtained its confirmation from the mother country; and under this compact they lived and prospered, and their descendants have continued to prosper, as a free State to the present day.

In sixteen hundred sixty-five, they again turned their attention to the qualifications of freemen, and in pursuance of their constitution or charter, enacted that all men of competent estates, and civil conversation, and obedient to the civil magistrates, shall be admitted freemen upon their desire therein declared to the general assembly, either by themselves, with sufficient testimony of their fitness and qualifications, as shall by the general assembly be deemed satisfactory, or if by the chief officers of the town or towns where they live, they be proposed and declared as aforesaid; and that none shall have admission to vote for public officers or deputies, or enjoy any privilege of freemen, until admitted by the general assembly as aforesaid, and their names recorded in the general records of the colony. In seventeen hundred and twenty-

nine, (just a century ago,) they enacted that the freehold qualification should be of the value of two hundred pounds, or ten pounds annual rent; and in seventeen hundred and forty-two, adopted further provisions to prevent frauds on the law; in seventeen hundred and forty-five, they passed the following act, viz: "whereas the manner of admitting freemen in this colony is so lax, and their qualifications as to their estates so very low, that many persons are admitted, who are possessed of little or no property, and it being greatly to be feared that bribery and corruption have (by the encouragement of evil minded persons, and by reason of such necessitous persons being admitted freemen,) spread themselves in this government to the great scandal thereof, so that the election of public officers have been greatly influenced thereby; and as the law already made hath been altogether insufficient to prevent the same, be it therefore enacted, that no person whatsoever shall be allowed to vote or act as a freeman in any town meeting in this colony, or at any general election, but such only, who, at the time of such their acting or voting as freemen, are really and truly possessed of lands, tenements, or hereditaments to the full value of four hundred pounds, or which shall rent for twenty pounds per annum, being their own free estate, or the eldest son of such a freeholder."

Such are the ordinances which our ancestors thought necessary to preserve the rights and liberties of themselves and their posterity, by preserving the elective franchise in the hands of the sound part of the community, the substantial freehold inhabitants of the State. Had they not a right to adopt those provisions? And have not their descendants, and those whom they have associated with them in conformity to those provisions, equally a right to preserve and adhere to them? Or is it indeed true, that other individuals, (wherever they come from,) who have never qualified themselves to exercise the elective franchise, and do not possess it, have yet a right to complain that they are disfranchised and treated as slaves, because the institutions of the State are not broken down to suit their purposes? Such complainers mistake their rights, which is a right to qualify themselves as the laws require, not a right to be voters without such qualification. The right to qualify themselves is a right common to all, and the laws prescribing the qualifications apply equally to the whole community without preference to any. Those who would claim more would claim "the privilege of anarchy, the privilege to disturb the peace of society."

There are some who pretend to consider the right of suffrage as an inherent natural right, which every man ought to enjoy. A man's absolute inherent rights are, or ought to be, common to all without distinction of age, sex, or color; such, for instance, is the right of private property. Is the function of voting such a right? Is it not, on the contrary, one of those political rights which we derive from the society to which we belong, and which of course can only exist as a right according to the existing institutions of that society?

There is no phrase in our language more frequently used, and with less definite meaning, than "nature," "a state of nature." As applied

to man, and in distinction to the state of society, we know not what is meant by such phrases; every man necessarily has his first existence in society. He has there his parents at least, and his kindred, and there he becomes the parent of others. The most limited society is that of a family, and this has its patriarchal government. However small the number of men living together may be, and although they may have entered into no express contract, nor adopted any regulations whatever for their government, they unavoidably act upon, and influence each other; their individual rights are relative, and their actions are regulated accordingly. What is this but a state of society? Hermits and solitaries themselves, if there are such, were bred and brought up in some society or other, from which they have unnaturally separated themselves. The truth is, that as to man, (a social being,) a state of society is a state of nature, and the only state of nature. The endless disquisitions, which have been written upon what is termed the "condition of man in a state of nature," "upon the origin of society," and "the nature of the social compact," might have afforded amusement, if their sage orators and their pupils had contented themselves with dreaming and telling their dreams, without laboring, to the incalculate injury of society, to have them admired and received by mankind as the great truths and realities, which ought to be adopted as the only true basis of practical government. In doing this, they have practised upon their fellow men without regard to their welfare, and as objects only upon whom to try their senseless and mischief working, (or as themselves would say) philosophical experiments in the science of government.

Of what importance is it whether we consider the elective franchise as a natural right, or a *grant* from society, as the term itself imports; when in either case it must remain subject to every restriction and regulation which the paramount rights and interests of the community require. The right to acquire, to enjoy, and to dispose of, property is one of our absolute rights; but we can only acquire and transfer it by conforming to the requisites prescribed by law; nor if dispossessed of it can we recover it, but by the remedies also prescribed by law. And whatever may be the amount of a man's property, if he becomes incompetent to the management of it, it may rightly be taken from his control, and put into the hands of a guardian. It is a common expression that a man has a right to do what he pleases with his own—yet there are many uses to which he is not allowed to put his property; because it would be noxious to the rest of the community. Every man has a right honestly to acquire property; but his right to possess and enjoy property accrues and commences only with the acquirement. So every man is at liberty to acquire to himself the qualifications which will entitle him to the privilege of voting; and when he has acquired them he will be admitted to that privilege; but until then he has no more right to claim the exercise of it than he has to claim a right to property which he has not acquired, and does not own. There is nothing too preposterous or unprincipled to find advocates; if it can be contended that a man possesses an inherent, unqualified, uncontrolable right, without the consent of the

society to which he belongs, to do an act, (whether it be voting or any other act,) by which the interests of the whole community may be affected, his own, perhaps, (if at all,) in a less degree than any other man. Those to whom the exercise of the elective franchise cannot be safely intrusted, have no more right to complain that it is withheld from them than have minors, or other incompetent persons, whose public interests, great or small, are taken care of by the qualified part of the community—the most trustworthy of all guardians, since it is for their own interest to be so.

The restrictions by which the welfare of society requires the elective franchise to be controlled, do not at all clash with the great truths which we all embrace, that the people alone are sovereign, and the source of all power; that governments are instituted solely for their good; and that the majority ought to govern. What is it that any man means, when he says that a majority ought to govern?

In this State, the number of the people is ninety-seven thousand; in South Carolina, it is four hundred and ninety thousand. Is it meant that a majority of these, in either instances, is to exercise the sovereign power, or to elect those who shall govern in their stead? No man, however visionary, entertains such an idea. Every one in the outset excludes all but free males of twenty-one years of age and upwards. But the whole of these of every description, are but seventeen thousand in the State, and but little over forty-six thousand in South Carolina; and a majority of them in that State is less than a twenty-first part of the whole number of the people; and in this State but a fraction over a tenth part of our population. And when we come further to deduct paupers, persons incompetent, and many others whom all rational men agree in excluding, the disproportion is still much greater. We have included the slaves in the population of South Carolina, because, whatever their condition, they are still a part of the people, as much as those of other descriptions who, on account of other disqualifications, are excluded from the exercise of the right of suffrage. Thus, the answer, which every man must be brought to make to the question we propose, is, that, when speaking of a majority of the people, he means only a majority of those who are qualified to exercise the sovereign power, and to elect their representatives and officers of government. Who are the qualified sovereign people, can, from the nature of the case only, be decided by themselves; for there are none else to decide it, or to whom to appeal from the decision. If they should exclude any possessing the same qualifications as themselves, (a case we believe which no where ever happened,) they would act unjustly; but when they admit to the right of suffrage persons not fit to exercise it, as they are always prone to do, then they endanger the liberties of the people, and do an irreparable injury to the whole community.

Can we then allow ourselves to doubt that the freemen of the State, in whose hands its safety and welfare are deposited, possess adequate power to guard and secure the elective franchise from abuse by all the restrictions necessary for that purpose? Or can we for a moment admit that any

individual, or class of them, can have any other claim to the exercise of that franchise than the legitimate one, which thus possessing the wholesome qualification required by the laws, will always give them.

If it were possible, certainly it would be right, to confine the elective franchise to the sound part of the community; and that none should be intrusted with it but such as are the real citizens of the State, have an interest in its welfare, and are friends to their country, and its free government. Unfortunately, it is much easier to define the necessary qualifications, than to ascertain how far they are possessed by individuals. But on the side of strict qualification there is no danger. None ever flowed from that source. Those who are to exercise that power, from which all the other powers are derived, and by whose votes the whole community are to be affected, cannot be too highly qualified, nor their qualifications too strictly examined and exacted. And, as it is impossible to construe, any rule by which to ascertain the moral and civil qualifications of man, we must be contented with adopting such a general one as will be most likely to ensure the greatest safety with the fewest exclusions.

It is well expressed in the bill of rights of one of our sister States, that "all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have a right of suffrage." This is sound as a general principle, but is not sufficiently definite for a rule of practice. A permanent interest is, in all cases, the surest, and in most the only, evidence of attachment to the community. For although a citizen born, unless he is an unworthy and unnatural one, will be likely, under any circumstances, to feel some attachment to his native State; yet from others we may not expect such attachment, unless they have a permanent interest at stake in the State, and have adopted it as their permanent place of residence. And then their attachment is but a secondary one, and is generally measured by their interest, and not much to be counted upon until after a long term of residence and trial.

We know, therefore, of no better general rule by which to regulate the right of suffrage, than the rule which requires the most probable evidence of permanent interest and attachment, which is furnished by the ownership of property, and by actual permanent citizenship. Let us particularly consider each of these qualifications, that we may satisfy ourselves whether either of them can be dispensed with. The ground on which a property qualification appears to be founded, is, that the right of property is one [of] our great natural and absolute rights. We have individually a personal right to defend it, and a claim upon society for its protection against the encroachments of others. Those, therefore, who have acquired property and possess this right, and have an interest in its protection, by wholesome laws and a good Government, ought to have a voice and influence in the enactment of those laws, and in the Government. It is usual to speak of property as of little value compared to life or liberty, and this no doubt is true, if we amuse ourselves with such comparisons. It may be of little consequence to others what amount of property is possessed by any individual; to society it is of

vastly more importance, that every man should be secure in the possession of a single foot of land, or a single dollar, than that he should be the owner of a township. But to weigh our great natural rights against each other, in order to ascertain their relative value, is mere speculation. They cannot be so weighed, for they cannot be separated. Where there is no security for the right of property, there can be none for any of our other rights. Nay, it is only through attempts against this right that our other rights can be assailed, so far is it from being true that the rights of property is of minor importance. Break down the barrier by which that right is protected, and all will be rapine, violence, and bloodshed.

Thus the whole science of legislation and jurisprudence is exercised in application to the rights of property. All the acts of Government, nearly all the provisions even of our small penal code, are referable to the same source—the protection of the rights of property. Nor can the liberties of the people ever be in danger when the rights of property are perfectly secure; for it's power over the territorious wealth and resources of a State which at once form the temptation and furnishes the means of usurpation.

So long (and only so long) as any Government can effectually be restrained from touching any more of the property of the citizens than is necessary for its faithful administration, it will never be emboldened to become careless of its dependance upon, and responsibility to, them; since will not have it in its power to surround itself (to any alarming extent) with those hosts of mercenaries, civil as well as military, (especially the former, always the most unprincipled and dangerous,) which can only exist upon the spoils of the people.

By security in the rights of private property, is not meant merely "the impartial administration of equal and expedient laws," which is said to be a good definition of civil liberty, for such laws may be made, and so administered by a despotic Government; but the citizens, or rather the subject, of such a Government, has no security for the continuance of the blessing. He holds it not as his right, but at the suffrance of this ruler. The only security for the preservation of this right is, that those who possess the right should possess the power to protect it.

And if these are sound principles, it seems to follow necessarily that those who have no property, or less than [the] law now requires as a qualification, are not likely (speaking of them as a class, and not meaning to apply the remark to every individual) to feel a common interest with the rest of the community in the protection of the rights of property, nor in the general object of legislation, nor in the wise administration of justice; and if so, that it cannot be wise, or safe, or just, to entrust them with power and control over those subjects.

To remind us that the possession of property is no certain proof of the possession of virtue or patriotism, is advancing nothing inconsistent with the fact, that those who do possess property, must necessarily feel a stronger interest in the preservation of the right of property. And thus it is certain, that even the vicious and unprincipled among this class, are generally friendly to wise and equal laws, and to able and upright courts.

Their viciousness is shown in a disposition to evade the execution of those laws in their own individual cases; and even in this, the more they have at stake the less likely they are to trespass on the laws which protect them. We must recollect, also, that a great proportion of those who are without property, have reduced themselves to that condition by their own improvidence, extravagance, or vices, and are, therefore, in all respects unfit to be intrusted with any control over the property or rights of others.

The other principal evidence of qualification—permanent citizenship—is at least as essential as that of property. Who, that do not permanently belong to the State, can have a right, or can with safety be permitted to have an agency in its laws and Government? None, indeed, can feel that attachment to the institutions and peculiar customs of a State; that respect for the memory and principles of its founders; that pride in its character and standing as a State; and that deep interest in the maintainance of its rights and privileges. None like those who have been bred and brought up in its bosom. Surely, then, if any others are to be admitted to share equally with these the powers and prerogatives of governing their own native State, it ought to be those only who have adopted it in preference to all other States, as the permanent place of residence—the only home of themselves and their offsprings. Even these, as we have before observed, cannot feel the same strong interest in it as native citizens. Their ancestors were not among ours; their natural connexions are in other places; and their habits, attachments, and predilections, have been formed before they came. What, then, can we expect or claim of those who came merely with a view to some present object of gain; to seek for some business or employment to make trial of among us, to be pursued, or not, as they may find their account in remaining here a longer or a shorter period for that purpose. Persons who leave their native homes from necessity, and whose constrained absence serves to strengthen their attachment to them, their distaste to all other places of residence, their hopes of some day returning to their homes, there to enjoy the fruits of their enterprises abroad—what claims have these upon us, more than to the rights of hospitality and the protection of our laws?

There would be nothing to apprehend from this source, if none but substantial citizens from sister States came here to reside. But such as these are under no necessity, and few such have any inclination to turn their backs upon their native States. There are exceptions certainly. We have a number of very valuable fellow-citizens who are natives of other States; these, we trust, make no complaints that they are not sufficiently honored and distinguished among us. But many, if not most, of those who come, are not of the same description; they bring little else with them than the pride of belonging to larger, (and, in their estimation,) more respectable States, which they consider as quite sufficient to entitle them to distinction here. But the evils resulting from the admission upon too slender qualifications of native citizens of sister States who come to reside here, are driven wholly from our thoughts, when we

come to reflect upon the dangers to be dreaded from the indiscriminate (in many States actually indiscriminate) admission of strangers from all quarters of the globe, of all nations, races, tribes, and tongues, to the exercise of the elective franchise, as if it was a worthless thing that could not be abused. Truly, of all the countries upon the face of the globe, this, our country, is the most bountiful—bountiful, we fear, to its own destruction. As if the American people could not of themselves enjoy the fruits and bounties of their country, because they were the lords of a territory ample enough to afford the same blessings to their posterity through a thousand generations. As if the descendants of those who made the country their own, and made it sovereign and independent, were not able to protect it, or to preserve the blessings bequeathed to them, our Government stretched out its arms, and invited to the bosom of the country the overflowings of all nations; invited them not only to come and enjoy the good things of the land, but to take part in governing us and our country.

It hastened to provide laws for naturalizing, (as it is termed,) and incorporating, with American citizens, all who should be brought—all of the color called white, and who were not *called* slaves, however abject and servile their actual condition might be; and to protect them, not only here, but on the seas, against the claims of their native countries, a second national war was (professed to be) engaged in, for the prosecution of which the blood and the resources of the people were staked and freely expended, and the nation burthened with a debt of millions. No wonder that such substantial allurements were not held out in vain. Since the creation of the world never were such captivating prospects presented, not only to the forlorn, depressed, and debased, but to the restless, ambitious, and aspiring, of all countries. No wonder they came, and continued to come, by myriads; those who could not otherwise get here, selling themselves for a term of years to any trader who would buy and bring them. The importation of this staple commodity became a regular branch of business, and upwards of twenty-seven thousand head were imported from Great Britain alone in a single year; a number nearly equal to a third of the whole population of this State. What numbers were brought from all other countries in the same year we cannot tell. A single merchant, or mercantile house in New York, we are informed, now keeps no less than eighteen ships, wholly and constantly employed in this business of importing and supplying us with fellow-citizens and freemen. What the whole mass, accumulating as it has been for near half a century since the establishment of our independence, now amounts to, it is beyond the power of calculation to ascertain.

We shall not be understood as meaning to include all who come here in a general description of the common mass of emigrants; we know that there are many highly respectable foreigners who have adopted this for their country, and who would be an ornament and valuable acquisition to any country. There are also among them many sober, industrious, skilful people employed in the humble, and, to us, quite as useful walks of life. Our remarks are applicable to the vast multitudes of a

different description; a great majority of whom were, in their own country, in as degraded a condition as man can be brought to by abject servitude, poverty, ignorance, and vice. What consciousness of the dignity and rights of man; what conceptions of the principles of free republican institutions, can such as these have?

The late Mr. Jefferson, in his notes on Virginia, speaking of the impolicy of encouraging emigrants to this country, who, he says, come mostly from despotic monarchies, makes the following remarks: "They will bring with them the principles of the governments they leave, imbibed in their earliest youths, or, if able to throw them off, it will be in exchange for the unbounded licentiousness, passing, as usual, from one extreme to another; it would be a miracle were they to stop precisely at the point of temperate liberty. These principles, with their language, they will transmit to their children. In proportion to their numbers they will share with us the legislation. They will infuse into it their spirit, warp and bias its directions, and render it a heterogeneous and incoherent distracted mass. Yet to such as these all honors, offices and emoluments, here are freely opened. The late law of the United States, requiring foreigners to be propounded a certain time before being naturalized, was intended to correct the evil experienced under former acts. But it affords merely a temporary, and very partial relief any where; and in some States foreigners are admitted upon a few months' residence, whether citizens of the United States or not."

The evils which we have thus entailed upon our posterity, and are experiencing ourselves, were inevitable. The hosts of new created freemen were soon too numerous not to feel their strength, and make it to be felt. Not contented with exercising the right of suffrage individually and quietly, they organized, or rather, were organized, by their aspiring leaders, into affiliated, political societies, bearing their proper national names. These societies, established in most, if not all, of the principal cities, kept up a correspondence with each other, held their political meetings, passed resolves, approbating and denouncing men and measures, nominating and dictating who should be governors, senators and representatives—State and federal—and even selecting their men for the Presidency and Vice Presidency of the U. States. Nor are these resolves mere idle boasts or threats. They have been considered so powerful that propitiatory addresses and appeals are made to them, soliciting their countenance and patronage in behalf of candidates for the highest officers in the gift of the people, not excepting the Presidency itself. The control which these societies and people thus exercise over some of the larger States, and particularly over the great cities, is almost unlimited. The grand schemes of internal improvements, which, of late years, have been so extensively embarked in, by inviting the loose, floating part of the foreign population to emigrate from State to State, enables multitudes of them to exercise the elective franchise in the various States where those schemes are in prosecution, particularly those States which require but a short term of residence, and no qualifications at all. And we are assured that several thousand of these free suffrage men, who

have canalling and road-making under their superintendence, in one of the most populous of the western States, by their votes, were the means of displacing some of the most valuable of its representatives to Congress, and had a great effect in the choice of the Presidential electors, if they did not turn the scale in that State.

The people of those States (and we may rejoice that the New England States are such) which are so fortunate as to possess few temptations for these emigrants, have been left unmolested to manage their own State affairs as they were managed by their fathers before them. But no State can escape its share of a national misfortune. The relative weight and influence of the States, and the apportionment of State representation in the Federal Government, are greatly affected by the vast amount of foreign population; and the character of a large portion of that representation is also affected by the same influences. Nor can it be supposed that the National Government itself will remain wholly unaffected by them. But those influences are most blighting to the morals, principles, stability and character of the nation itself. How can a country, whose native citizens are undistinguished, and can exercise no prerogatives but in common with an immense multifarious and exotic population—strangers to one another as much as to the native citizens—how can such a country hope to attain to that exaltation of national character, without which a nation may become powerful for a time, but can never be great and renowned. There was nothing of which the great ancient republics, so long as they remain[ed] uncorrupted, were so proud and tenacious, as of the rights of citizenship. No strangers were ever honored or trusted with them, but upon some signal service rendered to the State; and all were held to be strangers to the country but those who were inheritors of its glory, and bound in its destinies. Thus every citizen was allied to his country and identified with it; and hence that inextinguishable spirit of patriotism, that innate love of country, that devotedness to its glory, and that lofty pride of national character, which signalized the people of those States, and carried them to heights of grandeur and power to which the world paid homage. To be called a "Spartan," an "Athenian," or a "Roman," was greater honor than to be a prince. Nor is their fame still at all diminished. Even to this day all civilized people employ the terms "Grecian" and "Roman," to designate whatever they deem most perfects in the arts, in eloquence, refinement and wit, in language, history and poetry, as well as in virtue, patriotism, heroism and glory.

But this, our infant nation, claims the most of making a new and lively experiment in republican government; and there is every reason to believe that the experiment would be successful, if its success depended upon the American people, with a view to whose character and principles the new Government was framed. But this has not been permitted by our second race of philosophers. We must be universal philanthropists. We must not only preserve equality among ourselves, but must make all mankind equal with us. No matter how worthless the materials, the moment they are brought to our hands they are to be converted

into republicans and patriots, American patriots; and they shall instantly become high-principled and enlightened freemen; shall perfectly comprehend all the principles and purposes of *or* republican institutions, and shall be rulers over the land.

It is but forty-six years since our independence was acknowledged, and no more than sixty-three since it was claimed; once in every year we celebrate its era, and then we rehearse over the deeds and virtues of our ancestors, their enterprise and hardihood; their perils, trials, and sufferings, in this, then immense wilderness; their unconquerable spirit of republicanism; their achievements, triumphs and final success; and well may we be thus proud of the past; but we can feel little pride in the reflection, that this same country so gained and settled, once so peopled, enfranchised, exalted and ruled by a race of patriots and heroes, already has become every bodies' country, and that a real American descendant of that race, is now almost a stranger in his native land.

We are called a new country and a young people, who are trying a new experiment in a free government, and thus we are flattered into the grateful persuasion, that ours are a virtuous people, unhacknied in the vices and corruptions of the old government and people. This is a most dangerous error. Our government, to be sure, as an independent one, is new, and so is the country a new one, and ought to be the parent country of a young and virtuous race of people. But the fact is, that new as the country is, it is already in a great measure in possession of a population as perfectly initiated in all the misteries of vice; as conversant in all the scenes of depravity, and as old and ripe, as the population of the oldest countries, of which it made a part, before it got here, and by no means a better part. In short, that it embraces every grade of people, of every description and character, that can be found in any of the oldest and most depraved countries of the old world.

Can there be any stronger reason for guarding (while we may) the elective franchise, with the greatest vigilance and strictness, that it may be preserved as long as possible, in the hands of the sound part of the community?

Whether this has been a healthy growth of the nation, whether Americans are made happier or more virtuous, by means of this accumulation of heterogeneous foreign population, whether three millions of American citizens who composed the nation when its independence commenced, with all the means of subsistence in the greatest abundance, would not have multiplied sufficiently fast; whether the genuine descendants of the great founders and fathers of this nation, would not have inherited their virtues, their love of freedom, and their immoveable firmness and spirit, in its maintainance; and whether such an uncontaminated race of native freemen, would not have attained to a loftier elevation of national character, and have exalted their nation to higher destinies, and a more commanding rank among the nations of the earth; these are considerations which it is now painful, because useless, to dwell upon. Nor can it be necessary that we should dwell upon them, in order to convince ourselves how infinitely important it is, that if we

do not strengthen, we should at least do nothing to impair the strength of those institutions, by which alone the management of our own State and its concerns can be preserved in the hands of its own substantial legitimate freemen.

Those who do not raise their thoughts to the elective franchise as the only safeguard of the people's rights, and value it only as it may be made most available in the political market, are of course inimical to all provisions calculated to preserve it in its purity, and most of all, to those requiring a freehold qualification. Our ancestors foresaw from the beginning, that the ownership and possession of a competent freehold in the town where the freeman is to vote, would prove to be the only sure evidence either of actual citizenship, or permanent interest in the town or State. The public records show the title to the freehold, and its value is apparent, or, if questionable, is ascertained by appraisers. But if a pecuniary or personal qualification was to be substituted, what evidence in the slightest degree to be depended upon, could be expected in one case out of an hundred?

Loose verbal declarations, to be sure would not be wanted, as long as votes are wanted, and by means of them any number of vagrant voters might be transplanted into any and every town in the State. In those States where the experiment has been tried, it has been found to result in worse than universal suffrage—it was universal suffrage brought about by perjury, bribery and corruption. In addition to the frauds *to the frauds* committed by means of false swearing, it was the practice to provide some article valued at the amount required; a watch for instance, which was made to serve for any number of recruits, who, thus qualified, were marched up to the polls, one after another, attended by a guard to prevent any of them from running off with his qualification.

To free themselves from this prostitution of the elective franchise, the States which had felt its effects, resorted to an expedient in vogue in most of the other States. By that expedient, the payment of a tax is the only evidence required of the voter's property. This scheme is not liable to the same objections as the other, on the score of frauds; but comes almost, if not quite, as near to universal suffrage; for nothing but actual pauperism, is in fact excluded. When the right of suffrage may be thus bought for a mite in the name of a tax, twice the amount of which a dexterous beggar might perhaps acquire by his trade every day in the week, this tax qualification therefore is, in truth, merely a nominal one. It furnishes no evidence, either that the voter is worth any thing, or is any more than an occasional temporary resident. In short, it does not afford the slightest security to the elective franchise. It is also a strong objection to this species of qualification, that it rests with a set of assessors, to make and unmake freemen at pleasure—a power which they may sometimes be tempted to exercise, with a view to the support of the party they belong to, and upon which they depend for their posts and emolument.

We all remember the frauds upon the rights of suffrage by means of spurious deeds, which were formerly practised even in this State, when

that right was so strictly guarded by our election laws. These frauds at the time furnished an argument in favor of universal suffrage, on the ground that all regulations were futile and abortive. It is true, that they could not here be practised to any alarming extent, and have since been effectually suppressed. But the recollection of them ought to make us aware of the desperate extremities to which party men in high party times, (each party condemning the practice as unprincipled, but justifying itself by the example of the others,) will go to effect their purposes.

But those who favor universal suffrage make no account of such considerations. They would not allow public safety and welfare to have any weight in competition with what they denominate republican principle. We do not forget that they profess not to be in favor of universal suffrage, but the doctrines they advocate result in the same thing, and nothing better. It is assumed, as a great principle, (of some kind or other,) that all who contribute towards the support of government, by paying a tax, or training in the militia, or (according to some) by working on a highway, have a right to a voice in the choice of their rulers. Thus, if a set of assessors rate a man for a shilling tax, or militia captain puts his name on the roll, and gives him a holiday training and treat, or if the surveyor calls upon him (a stout foreigner perhaps) for half a day's work or play on a road, which the man would not be likely to decline, when, as the price of it, he is to possess himself of a valuable privilege, always commanding a price in the market, in either of those cases, the man is to be transformed at once into a freeman; and men thus qualified are to be hailed as part of the sovereign people, and marched up to the freemen's meeting, there to balance the votes of as many of the most substantial native freeholders and freemen, and that, too, in questions which may vitally affect the very safety and welfare of the State. What wretched conceptions must that man have of the importance of the right of suffrage who can thus estimate it. Is there any such preposterous principle as this, that fixes a petty price upon the elective franchise, without regard to fitness or unfitness for the exercise of it? Whoever pays a tax, pays it for the protection which the law extends to himself and his property, (if he has any;) whoever works on a highway, is required to do so because he has the use of it; and whoever trains in the militia, is required to do so by the laws of Congress. But does either or all of these acts furnish any evidence that the man is qualified or at all fit to be entrusted with the exercise of the all important right of suffrage, and to interfere in the affairs of government? And is he to exercise that power, whether fit or not? It is true that the possession of a freehold estate is no positive proof that the possessor is worthy to be a freeman; but, making all reasonable allowances for exceptions, the probability is, that those who possess, and especially those who have acquired for themselves, a competent freehold, are more industrious, prudent, and substantial, are more permanently settled, and feel greater interest in, and attachment to, the State in which they are owners and cultivators of the soil, than those who have either squandered the inheritance earned for

them by their fathers, or have failed to acquire any for themselves, although the acquisition was to be accompanied by this so much coveted right of suffrage.

We are aware that there are many worthy citizens not possessed of the freehold qualification, but these are constantly acquiring it for themselves; and in this country, almost every man of industry and good conduct—every good citizen, in short, is almost certain speedily to acquire (if he will) a sufficient freehold qualification. And in the mean time, this class of citizens, equally with all others, enjoys the benefit of the wise provisions by which the elective franchise is guarded from abuse. Still, it is true, there will remain some wholesome citizens, whom ill fortune and unavoidable circumstances prevent from qualifying themselves. Of these, we hope those are but few, and we regret there should be any. They will reflect that no general rule can be made so perfect as to be free from all exceptions, and when they see the management of affairs in the hands of the substantial part of the community, (as far as this can be accomplished,) they will not desire that a general rule, best for the whole, should be broken down or relaxed on their individual account, when that prostration of the rule would take away all value from the privilege itself, by letting in at the same time multitudes of others, of a different character, to exercise it, without regard to the welfare of the community.

Nor do we believe that any complaints are made by this class of citizens. We know that most of those who do acquire sufficient freeholds, are seldom in any haste to qualify themselves to take a part in the political intrigues and contests of the day, and most of them are urged forward to be propounded and admitted, and to attend town meetings, by persons who take more interest in the matter than they do themselves.

There is one other class of citizens of whom we have not taken any notice; we mean those who do possess sufficient property to qualify themselves, but do not choose to. Such persons have as little right to complain, as those who do possess sufficient freeholds, and will not be at the trouble of having themselves propounded, as little right as they would have to complain that carriages are not provided for them, at the public expense, to carry them to town meetings. If any of those who have it fully in their power, and at their own adoption, to qualify themselves for voters as soon as they please, are so indifferent to the privilege, or so engrossed by more profitable pursuits, or so greedy that they will not spare the small sum of one hundred and thirty-four dollars to purchase a freehold, because it might give them a little less profit, they ought at least to remain quiet and peaceable citizens. For should any of them, instead of qualifying themselves like good citizens, suffer themselves to be drawn into mischievous cabals, and to act conspicuous parts in clamerous and disorderly meetings, set on foot by troublesome demagogues and noisy political agitators to answer their own purposes, they would give but a poor promise of their suitableness to become freemen, and the longer they continue unqualified the better. We are however persuaded, that there are very few, if any, of such a description of persons. Com-

plaints, such as we now hear, are almost always made, not by, but in the name of, those who are (or would be if left to themselves) perfectly satisfied with things as they are.

Thus, some people are greatly scandalized at the privilege of the oldest sons to be voters, when probably there is no instance of complaint on that score from the brothers. But it seems that this is a monstrous feature in our system, because, in feudal times and countries, the oldest son was sole heir to the estate of the father, and as we have abrogated that doctrine, and declared all the children to be equally entitled to inherit, it is inferred, that if the oldest son is admitted to be a voter, the others ought equally to be admitted. This seems to us not to be very good reasoning. The right of the oldest son to vote is not derived from the father, nor has it any connexion with the inheritance of his property; if it had, the daughters ought to share in it as well as the sons. But it is a privilege granted to that son by the freemen, and does not in any *very* diminish or detract from any right or claim of his brothers or sisters. Suppose the oldest son possessed no such privilege, and the subject was now for the first time to be considered by the freemen, what conclusions would they probably come to? They would no doubt be desirous of extending the privilege to as many of the citizens as could be safely intrusted with it, and if they should be of opinion (as it is probable they would) that it would be safe in the hands of sons of freeholders and freemen, though it might not be in the hands of those who were neither freeholders nor sons of them, they would then consider whether it should be extended to all or a part of those sons. It is not to be conceived, that the freemen would be disposed to make any unnecessary distinction between their own sons. But here it would forceably occur to them, that to extend the privilege to all their sons, would make a very unequal distribution of influence among those who had many sons and those who had few or none. They would therefore necessarily and properly discard this plan, and as the most equal one in which all would be likely to agree, they would give the privilege to one son only of every freeman having a son; and this, as a matter of course, would be the oldest son.

For, if there were no reasons for preferring, there could be none for passing by him, when establishing a general rule, by which one only of the sons can be taken. And if all the sons of the freeholders were to be consulted, there can be no doubt that they would make the same selection. The privilege is not granted (as some suppose) as a favor to the oldest son with a view to distinguish him above his brothers, but because it is deemed safe and expedient that it should be exercised by some one of the sons, and the oldest is fixed upon by common consent. He is more easily designated than others. A second or third son might not exist; and to select the youngest would be going out of the way to show a preference. The privilege, besides, in many cases, would remain unenjoyed for years by the youngest son, while it might be enjoyed *in* in the hands of the oldest. He is presumed to have more experience and maturity of judgment. In all well-regulated families the oldest brother

is looked up to by the younger part of the family not only with affection, but with respect and confidence, as their safest friend and adviser, next to their parents. He is taught to be so by those parents; expected to supply their places to the utmost of his power when their own parental care should be withdrawn; and he is generally sensible of the sacredness of the trust, and faithful in the observance of it. Those who would mar such family ties, by exciting jealousies in younger brothers against the elder, because he temporarily exercises a privilege which one of them only can exercise, are but indifferent friends to society. If, then, the sound judgments of the freemen would lead them to approve of such a rule, if it did not already exist, they would hardly be deterred from adopting it by being reminded that in old feudal countries oldest sons are sole heirs to their father's property. Nor would they believe that any principle of justice required them to deny the grant of a privilege to one of their sons because they would not make similar grants to all the rest of them. With regard to the general operation of this provision, we believe that it materially favors the middling and poorer classes of freeholders, who, in numbers, greatly exceed the more wealthy class.

Upon our principal subject, the necessity of requiring a freehold qualification, we have only to remark, that it has a strong tendency to check the monopoly of large landed estates in the hands of a few individuals, and operates as an incitement to meritorious young men to acquire for themselves the privilege from participating in which many, though not all, of the unworthy are excluded. A privilege which ought to be intrusted to those only who are profoundly sensible of its importance, and of the responsibility which the possession of it imposes upon them.

We have often been told how far we are behind our sister States in our conceptions of free government, and have been called upon to follow their example, and act upon their enlightened views of the universal right of suffrage. It would be wise for us to profit by the wisdom of others, but not wise for us to surrender our own judgment to theirs, without conviction. Let us, then, take such a view of those provisions of other constitutions, which relate to this subject, as will enable us to form a just estimate of the improvements they are supposed to contain.

Of the twenty-four States already embraced in the Union, Virginia and Rhode Island require a freehold qualification for voters. Connecticut requires a freehold of seven pounds yearly value, or the payment of taxes, or one year's service in the militia, (unless exused,) and that the voters shall have gained a settlement in the State. And turning the laws of that State to ascertain what the applicant has to do to gain a settlement, we find, that if he comes from a sister State, he must reside at least one year in the town in Connecticut where he is to gain his settlement, and must be possessed, in his own right, in fee, of real estate in that State of the value of three hundred and thirty-four dollars, free of incumbrance, the deed of which shall have been one year on record; and without such substantial recommendation, he gains no settlement, unless especially favored by the authority of the town. Maryland requires a freehold of fifty acres, or property to the amount [of] thirty pounds.

North Carolina requires a freehold of fifty acres to vote for senators, the payment of taxes to vote for county members, and a freehold to vote for town representatives. South Carolina, a freehold of fifty acres, or payment of taxes. Tennessee, a freehold in the county where the vote is given, unless the voter is a resident there. New Jersey requires fifty pounds proclamation money clear estate. New York requires that the voter shall pay taxes, unless exempted, or serve in the militia, (unless excused,) or be assessed to labor on the highway; in which case he must be three years an inhabitant of the State, and one year of the town or country where he votes. Mississippi requires payment of taxes or enrolment in the militia. Seven other States, viz: New Hampshire, Massachusetts, Pennsylvania, Delaware, Ohio, Georgia, and Louisiana require only the payment of taxes as evidence of property. The remaining seven, Maine, Vermont, Kentucky, Illinois, Alabama, Indiana, and Missouri, require no property qualification, or any equivalent or substitute. The constitutions of all the States, except three, expressly exclude females. In two of those three they are excluded by construction, and in the other, (New Jersey,) where females formerly voted in high party times, they are now excluded by act of the legislature amending the constitution. Thirteen of the States expressly exclude all people of color. The other eleven, viz: Maine, New Hampshire, Massachusetts, Vermont, New York, New Jersey, Pennsylvania, Maryland, North Carolina, Georgia, and Tennessee admit, or do not expressly exclude them. But one of these, New York, makes a marked distinction between her white and her colored voters—requiring of the latter freehold estates, for which they pay taxes of two hundred and fifty pounds value, and three years instead of one year's residence. One State excludes paupers; another, paupers and persons under guardianship; a third, adds Indians not taxed to these exclusions. Connecticut requires the qualification of a good moral character, and Vermont requires peaceable and quiet behaviour, and an oath; Pennsylvania and Delaware allow the sons of voters to vote for one year after coming of age. Every State requires a residence of a shorter or longer time—from three months up to three years. Every State excludes all under twenty-one years of age. Five of them only requires citizenship of the United States.

Such are the various modes in which the elective franchise is disposed of by the constitutions of different States, and who can fail to perceive in them those incongruities which always show themselves when impracticable theories are attempted to be strained into practice? While reading some of them, we could not have been greatly surprised to have found *its solemnity* ordained that no qualifications of any kind are necessary, or ought to be required, to entitle men freely to exercise the elective franchise, at all times and in all places where they may happen to sojourn. And yet, after all the sacrifices made, of practical utility and public safety to theoretical rights, the same instruments, in every instance, contain other features wholly irreconcileable with that predominant doctrine. By what right is it, that the whole of one of the sexes are unceremoniously excluded? They are as intelligent, discreet, and

industrious; are more highly cultivated, and more correct in habits, manners, and morals; and, what is of great importance, they are generally more permanent residents in their native States—more identified with, and more strongly attached to, them than our own sex. Their claims, therefore, are quite as strong as those of the sex by whom they are excluded. And why, then, are they excluded? Those who are influenced only by considerations of public utility, are at no loss for an answer. The exercise of the elective franchise, as it is every where exercised at the polls, would be inconsistent with those peculiar virtues and characteristics of the sex, and would impair those social ties and relations which ought to be held sacred. It is expediency, therefore, and that only, which justifies the exclusion. The abstract principle of right, upon which the constitutions we speak of are professedly based, forbids such exclusions. How, then, can those who profess to act upon that principle, justify a flagrant violation of it upon the plea of expediency, which, in most other instances, they sacrifice to it? If practical public utility is to be consulted at all, it ought to be consulted throughout, as the only sound principle of action, and it is an abuse of that principle, and of the very name of public good, to resort to it only when we have no other means of escaping the too glaring absurdities which our favorite systems would run us into. Where, then, is the consistency of those constitutions, which, professing the principle of a universal right of suffrage, exclude, at a sweep, the most meritorious half of society on the score of sex, and one-half the remainder on the score of age, and then proceed to admit Indians, negroes, and others called people of color; all persons, in short, of every description, not excepting paupers, persons under guardianship, foreigners, strangers, servants, dependants, or convicts even, and without the least regard to qualifications of any kind, as if all living things in the human shape (except females, and those who lack a single day or more of the precise age of twenty-one years) are worthy agents to exercise the power of appointing those who are to rule over the people, and to hold in their hands the lives, liberties, rights, and property of a whole community.

It would seem, that men fond of theories are ever most attached to those which are most visionary and baseless. Nothing short of such a propensity could, we think, have blinded any rational man to the impolicy of admitting people of color upon any terms, in this country, to the exercise of the right of suffrage. Without insisting that the African race labor under any peculiar mental or physical disabilities, it is enough to remark, that different races (if we may not say different species) of men, can never be so far assimilated as to embrace the same views of the common good, or to unite in pursuing the same common objects and interests. What, then, must be the consequences, when a distinct race of men, whom nature herself has distinguished by indelible marks, and whom the most zealous assertors of their equality admit to be, if not a distinct species, at least a variety of the human species, are invested with the right of suffrage, and brought up to the polls to act a part in the political contests with which the country is continually agitated. Whether

justly or not, they will always be continued to be looked upon and treated as an inferior order of beings; and they, on their part, will never cease to remember, with feelings of bitterness and hatred, the long abject condition of their species. No degraded race of men was ever yet satisfied with being raised to a footing of equality. They never feel that equality, nor believe it to be acknowledged by others. They remain unsatisfied until they have gained an undisputed ascendancy.

It is not in nature for them to feel grateful for the grant of privileges which they consider as their own by right, and as having been tyrannically withheld from them. On the contrary, every step they are advanced does but strengthen the hostility of their spirit, by giving them a nearer prospect of triumph and revenge. There are few, we believe, so infatuated as to think that this race of people can ever be so incorporated into the mass of society, as to form one identical people, freed from all traces of former distinction. Nothing, indeed, but the most depraved taste, feelings, and principles, can bring any man to wish for such a condition of things. The laws of our nature will not be suspended or changed, to realize the speculations of dreaming theorists. But until this shall come to pass, this peculiar race must remain by themselves, and act by themselves, not in harmony and as equals, but in subserviency or hostility, or both by turns. If, in New England, these evils are less perceptible, it is only because the source of them is more confined. Yet even here, in some of the large cities, where the people of color chiefly resort, much trouble and inconvenience have frequently been occasioned by them. But in those States where slaves are held, and must of necessity continue to be held, however reluctantly on the part of holders, the most serious evils must result from the admission of a mixed multitude of freed blacks and people of color, to form an intermediate class between the slaves and the proprietors. An ill-boding connexion and intercourse will be kept up between the free people of color and the slaves, tending to render the latter discontented and unruly, and leading to continual plotting and mischief. We are far from being advocates for slavery; but we are convinced, that great as the error of introducing slaves into this country may have been, it would be a far greater error and evil even to resort to the experiment of converting them into freemen in the same country in which they are held as slaves. Such an experiment would only end in the final extermination of those people themselves, as well as in the destruction of great portions of those by whom they are held.

But the feature in the constitutions we have been speaking of, at least in harmony with the doctrine of universal right of suffrage, (which in other respects is carried to such extremes in those instruments,) is the striking difference they make in the qualifications of the electors and of those whom they are allowed to elect. In none of those States (except Connecticut) can a single one of the electors, who is barely qualified to act as such, be himself elected a representative, much less a senator. In most of these States, a senator or representative (with some difference as to amount) must possess a clear freehold estate of very considerable ex

tent, from one hundred to five hundred acres, and of value from one hundred pounds to one thousand dollars. In one State, the freehold must be worth five hundred pounds sterling, and in another, a thousand pounds sterling, clear of debt. And where real and personal property together make the qualification, the amount required is still much greater. In one State, in addition to a freehold of five hundred acres, the candidate must own ten negroes. The term of residence also must be much longer than is required of voters, viz: from one to seven years, and the candidates must be of more mature age, viz: from twenty-two up to thirty-five years in different States.

Could the framers of those constitutions more clearly have manifested their own consciousness of the extreme worthlessness to which they have degraded the elective franchise, and their apprehensions of the ruinous consequences which must result from that degradation, than in this attempt to guard against those consequences by an expedient so inconsistent with the principle they had acted upon in regulating that franchise? Considering the claim to be a voter, and the claim to be voted for, (or not to be excluded from being voted for,) to be of precisely the same character, and that, if there is any positive right in the one case, there is the same right in the other, we cannot perceive the consistency of prohibiting those who have the right to vote, from voting for one another, or for any other persons, except those pointed out to them.

Upon this view of the constitutions of other States, we beg leave to enquire wherein the freedom of the people, as regards the elective franchise, is better consulted and secured by any one of these constitutions, than it is by our own institutions.

Your committee are too deeply impressed with the importance of the subject referred to their consideration, to close this report without presenting at least a partial view (since they can do no more) of the dangers by which a free people are encompassed without hope of escape, when the elective franchise is suffered to fall into the hands of those, who are at all times the fit and ready instruments of ambitious individuals. Power over the people and their rights, in a free State, can only be obtained in the first instance by the aid of voters. That a great portion of the community make it the study and business of their lives to possess themselves of as much of this power as possible, and by means of it to support themselves at the public expense, we know full well; but how it is, that this distinct class of people succeed and invest themselves with offices and honors, with fees, salaries, and emoluments, when, if compared with the rest of the people in point of worth and merit, they would be found to be below an average; how it is, in short, that the people themselves are used by the politicians as the implements of his trade, this mystery we can only comprehend by considering the mixed materials, the various classes and descriptions of people of which society everywhere is composed. That inequality in the condition of men of which nature herself is the primary cause, bestowing as she does, her gifts of intellectual and physical powers and faculties profusely upon some, upon others and others, through every gradation, less and less liberally, and finally upon

very many affording nothing better than mere negative qualities, feebleness of capacity, and tameness of spirit, which leaves them without the power and even the inclination even to enter into competition with those more bountifully endowed; the inequality thus originating and increased without limits by artificial and acquired advantages and influences, this it is by which every community is divided into distinct classes, which in the progress of society become more and more strongly marked.

But the character thus stamped upon the frame of society would of itself be of less importance, were it not for the advantages taken of it by the strong over the weak, the ambitious over the dependent. In a commonwealth like that of the United States, the thousands and tens of thousands of offices, dignities, and honors, supported and aggrandized by millions and tens of millions of revenues regularly collected without failure from the people for that service; these mighty temptations generate and bring forth a countless host of aspirants of every grade and character, who devote their time and faculties to the study and practice of politics as a trade, upon their success in which all the best prospects in life depends. These form a distinct class or profession, having separate interests, and being clearly marked and distinguished from the rest of the community by the peculiar character of their occupations, the instruments with which they work, and the value and description of the products of their skill and labor. And of these there is always a double set, those who are in possession of the posts of office, with their connexions and adherents expecting offices and favors, and those who are unceasingly struggling to *to* dispossess them. This class has never existed in any country without there being found, in the opposite extreme, a numerous class of dependent instruments. And between these two, and subjected to the encroachments of both, are the industrious classes of the people, by whom the others are sustained and supported.

We may shrink from the idea of an aristocracy. But the best historians inform us, that there was never yet a commonwealth without even its order of hereditary nobility. The Federal Constitution has guarded against the introduction of titles of nobility. So did the celebrated Tuscan cities, and yet they had them. And that there is in this country, as well as in every other, however free, an aristocracy of office naturally and unavoidably produced by power, patronage, and influence inseparable from the possession of all the great and minor offices of government, we must be dull, indeed, not to know. And although we have no title of nobility, yet, as the Republic of Holland had its "High Mightinesses," so have we our *Excellences*, *Honorables*, and *Worshipfulls* titles, with which those who are exalted to them are as proud (or vain) of them, as the Dukes and Earls of other countries of their titles. They all feel the same love of power, and distinction, and emoluments, by whatever titles they are called.

It will not be supposed, we trust, that our remarks are intended to apply to any particular administration, past or present, or to any particular party or individuals. Different parties may and will advocate and pursue different political schemes, in which they may all of them be more or less right or wrong. We have no idea that, in point of political virtue and

patriotism, one political party can claim any preference over another. We speak solely of the natural tendency of all republican governments, and of the natural propensities and influences which will inevitably govern all men, (with few exceptions,) who are in possession of power, or are in pursuit of it. It is true that the people ought to put the most liberal construction upon the conduct of their rulers; to make every reasonable allowance for the errors they may commit, and firmly and effectually to aid and support them in the perform[ance] of their official duties. But all this they may do without forgetting that it is the disposition and tendency of all governments to strengthen their own hands and increase their own powers by encroaching upon those of the people. And that, in short, the best that can be said of them, is, that they are a necessary evil. It is not true that men in power feel none but a common interest with the body of the people—they do and will ever feel a far stronger personal individual interest in perpetuating and increasing their own power, and will most of them, in furtherance of these private purposes, employ the additional influence derived from their offices to increase the number of their adherents and instruments.

We apprehend that the people generally are little aware of the number and strength of this powerful body, or of their almost resistless influence and control over the suffrages and elections. The number of men dependent upon the Post Office establishment alone, including postmasters, deputies, clerks, contractors, agents, carriers, and others, amounts to more than thirty thousand; the numbers employed under the other departments, especially that of the Treasury, are also immense; and considering, on the one hand, the willingness of Government to enlarge the sphere of their patronage, and on the other the greediness of individuals to obtain offices, even the most insignificant, it may reasonably be supposed that offices have been, from time to time, and will continue to be, unreasonably multiplied. Should the project, which has been partially adopted, of applying the surplus revenues to the purposes of internal improvements, be carried to the extent [to] which it may be, there will no longer be any bounds to the patronage of Government. We have nothing to say here upon the subject of the constitutionality of that project. We speak only of its effects in connexion with [the] subject before us.

If the surplus revenue can be so disposed of, there can be no bar to the exaction of additional revenue to any amount by direct taxation, or otherwise, to be applied to the same purposes; and who can calculate the power of a political engine by which entire States may be moved with ease—at least so long as they enjoy the exclusive benefit of the revenues drawn from other States.

The numbers of those interested in State offices are, of course, much greater; and however we may regret it, we must be aware that State and National politics, parties and influences, have got to be but too closely connected. The immense patronage possessed by the General Government has been found in every State greatly to influence, and in most of them finally to control, the State elections and politics.

Thus is created and organized an army of civil officers an hundred times more numerous, and a thousand times more efficient and formidable, than any military army that could be embodied in this country with views hostile to its freedom. And the discipline of the military is not more strictly enforced than is that of the civil host. Who ever steps out of the ranks of the latter is immediately deprived of his office—their whole efforts are concentrated and directed to the same point and object—the furtherance of their own exclusive political interests. The course laid down for them may be right or may be wrong, but they have no power of choosing for themselves. If, in the opinions of any of them, that course be ever so wrong, or ever so injurious to the public welfare, still they are compelled to preserve it; for they will not sacrifice their own immediate individual interests to any considerations of the public good. Nor is the public service the primary object in the selection of these hosts of offices; on the contrary, one-half or nearly one-half of the people are excluded by party; and upon the same principle of action, the selections from the other half are made with a view to the strength of the party; and thus we find that the men who obtain offices are generally those busy, forward, intriguing politicians whose claims, boldly asserted, cannot be safely overlooked, however unqualified they may be to perform the duties of the offices they demand, while better men, in all respects better qualified for the public service, are passed by without notice.

And this powerful political body is not more strong in its numbers and discipline, than it is in its means of sustaining itself. All its members, in addition to their personal exertions and influence, will very readily contribute a portion of their pay to secure themselves the continued enjoyment of the residue; or should any of them be backward in doing so, their compeers will be sure to coerce them to pay their quotas. The political uses to which the thousands of post offices, with which the whole U. States are thickly studded over, may be put, should that immense establishment ever be prostituted to such uses as it certainly may be, must be apparent to every man. And should the numberless local paper money banks be gained, and we know that great party uses are already made of them, and may be certain that there will be a great struggle of parties to obtain the control of such an engine; and should the equally numberless political printing presses, all of which are in the service, and many of them in the pay, of one party or another, and too many of which are employed in misinforming and misleading the public mind, should these also be brought into combination and co-operation with the post office establishment, then will the free people of this country become sensible of a pressure under which it will be happy shall they be able to bear up.

The maxims of policy which the leading political men of all parties have openly adopted and practised upon, are in direct hostility to the interests of the people, and tend inevitably to the subversion of their rights. Some of those maxims are, that every man who claims to act according to his own convictions of right and wrong, and will not agree

to go thoroughly with the party, ought to be discountenanced by all parties; that every man is bound to support the measures of his party, and approve of their nominations to office, however fully convinced he may be that those measures are unwise and injurious to the public interests, or that the men proposed for office are wholly unfit to be trusted with them; that in politics the end justifies the means, or in other words, that in politics honesty is not the best policy. It is an alarming fact, that [as] pernicious doctrines as these are openly avowed and justified by men who in their private concerns hold a high standing in the community. Doctrines which approach very near the noted maxim of Machiavel, that "men ought never to commit crimes by halves."

These truths are obvious, and we see them exemplified in the progress of all parties; can we then be blind to the consequent self evident truths, that an aristocracy of office and power, such as exists in this, and must necessarily exist in every republic, attaches itself to the democracy of the country, mainly if not solely, for the purpose of self-aggrandizement, that it will continue to court and flatter that democracy, so long as it needs its support and fears its strength; and that while most profuse in its professions of devotedness to the will and service of the people, it is incessantly laboring to strengthen its own hands, by increasing the number of its dependents, and multiplying the instruments of its power.

If these things are plain to our view, can we not also see that if the great right of suffrage, upon which the welfare and existence of the commonwealth as a republic depends, the only power which the sound part of the community possess of protecting themselves from the encroachments of ambition, if this power is put into the hands of that class of people, which though it contains some wholesome citizens, embraces at the same time all the loose and floating—all the dependent and mercenary population—all those who have little or nothing at stake themselves, care little or nothing for the rights of others—people who, in voting, exercise no judgment of their own, nor have any wish to form any, taking their impulses and directions from their leaders, and ready to fight their battles, not merely by voting, but by every species of excess, of brawling, and violence, to which those leaders may instigate them; can we not see, that to put power into such hands, instead of adding to the number of real freemen, would be to multiply the instruments whereby ambition may enable itself to set those freemen at defiance. Some idea of the character of the new made voters may be formed from the fact, that the whole increase of population in this State, probably amounting to [ten] or twelve thousand, during the last ten or twelve years, this whole increase has been in the manufacturing districts, including the town of Providence as their centre, what a spectacle would our freemen's meetings exhibit, should they ever be filled by hosts of mercenary voters. Even now, we know that angry feelings, looks and language, and sharp disputes, are but too much indulged in. And in many places where free suffrage prevails, we constantly hear of affrays, violence, and even bloodshed. Each party spiriting on its reckless retainers, to get possession of the polls, and to intimidate its opponents; and

the consequence is, that great numbers of sober minded, peaceable freemen, are disgusted with such scenes, and keep away from the polls, where they know they will be abused and insulted for exercising the rights of freemen.

We ought to recollect, that all the evils which may result from the extension of suffrage, will be evils beyond our reach. We shall entail them upon our latest posterity without remedy—open this door, and the whole frame and character of our institutions are changed forever.

It is not safe for any nation to flatter itself that it will always be wiser and better than all others have been. The Athenian and Roman republics, great, renowned, and proud of their liberties as they were, were subverted one after the other, and enslaved by the instrumentality of this same engine of universal suffrage. The moment that was introduced, the brokers of office and sellers of their country publicly spread their tables, upon which they counted out their bribes to the voters.

For the committee: B. HAZARD.

House of Representatives, June session, A. D. 1839.

Schedule C a.

The following resolutions were passed by the general assembly at the January session, A. D. 1841, upon a memorial from the town of Smithfield, to enlarge the representation from that town to the general assembly.

Resolved by this general assembly, (the senate concurring with the house of representatives therein,) that the freemen of the several towns in this State, and of the city of Providence, qualified to vote for general officers, be, and they are hereby, requested to chose, at their semi-annual town or ward meetings in August next, so many delegates, and of the like qualification, as they are now respectively entitled to chose representatives to the general assembly, to attend a convention to be holden at Providence, on the first Monday of November, in the year of our Lord 1842, to frame a new constitution for this State, either in whole or in part, with full powers for this purpose; and if only for a constitution in part, that said convention have under their especial consideration, the expediency of equalizing the representation of the towns in the house of representatives.

Resolved, That a majority of the whole number of delegates, which all the towns are entitled to chose, shall constitute a quorum, who may elect a president, and secretary, judge of the qualifications of the members, and establish such rules and proceedings as they may think necessary; and any town or city which may omit to elect its delegates at the said meetings in August, may elect them at any time previous to the meeting of said convention.

Resolved, That the constitution or amendments agreed upon by said convention, shall be submitted to the freemen in open town or ward meetings, to be holden at such time as may be named by said convention. The said constitution or amendment shall be certified by the pres-

ident and secretary, and returned to the secretary of State, who shall forthwith distribute to the several town and city clerks, in due proportion, one thousand printed copies thereof, and also fifteen thousand ballots, on one side of which shall be printed (amendments or constitution), adopted by the convention holden at Providence, on the first Monday of November last, and on the other side the word—approve—on the one-half of said ballots, and the word—reject—on the other half.

Resolved, That at the town or ward meetings, to be holden as aforesaid, every freeman voting shall have his name written on the back of his ballot, and the ballots shall be sealed up in open town or ward meetings by the clerks, and with lists of the names of the voters, shall be returned to the general assembly at its next succeeding session; and the said general assembly shall cause said ballots to be examined and counted, and said amendments or constitution being approved of by a majority of the feemen voting, shall go into operation and effect at such time as may be appointed by said convention.

Resolved, That a sum not exceeding three hundred dollars be appropriated for defraying the expenses of said convention, to be paid according to the order of said convention, certified by the President.

Schedule D.

To the honorable the general assembly of the State of Rhode Island.

The undersigned, inhabitants and citizens of the State of Rhode Island, would respectfully represent to your honorable body, that they conceive that the dignities of the State would be advanced, and the liberties of the citizens better secured, by the abrogation of the charter granted unto this State by King Charles the second, of England, and by the establishment of a constitution which should more effectually define the authority of the executive and legislative branches, and more strongly recognise the rights of the citizens. Your petitioners would not take the liberty of suggesting to your honorable body any course which should be pursued, but would leave the whole affair in your hands, trusting to the good sense and discretion of the general assembly.

Your petitioner would further represent to the general assembly, that they conceive that an extension of suffrage to a greater portion of the white male residents of the State, would be more in accordance with the spirit of our institutions than the present system of the State, and for such an extension they ask.

Your petitioners would not suggest any system of suffrage, but would leave the matter to the wisdom of the general assembly.

Upon both the prayers of your petitioners, they would ask the immediate and efficient action of the general assembly; and, as in duty bound, will ever pray.

Signed, ELISHA DILLINGHAM,
And about 580 others.

Schedule E.

A declaration of principles of the Rhode Island Suffrage Association, made 7th day of February, 1841, *and the* 13*th of April*, 1841.

Believing that all men are created free and equal, and that the possession of property should create no political advantages for its holder; and believing that all bodies politic should have for their foundation a bill of rights, and a written constitution, wherein the rights of the people should be defined, and the duties of the people strictly pointed out and limited; and believing that the State of R. Island is possessed of neither of these instruments, and that the charter under which she has had political existence, is not only aristocratic in its tendency, but that it lost all its authority when the independence of the United States was declared; and, furthermore, believing that every State in the federal compact is *entled*, by the terms of that compact, to a republican form of government, and that any form of government is anti-republican and aristocratic which precludes a majority of the people from participating in its affairs, and that by every right, human and divine, the majority of the State should govern; and furthermore, and finally, believing that the time has gone by when we are called upon to submit to the most unjust outrages upon our political and social rights, therefore,

Resolved, That the power of the State should be vested in the hands of the people, and that the people have a right, from time to time, to assemble together, either by themselves or their representatives, for the establishment of a republican form of government.

Resolved, That whenever a majority of the citizens of this State, who [are] recognized as citizens of the U. States, shall, by delegates in convention assembled, draft a constitution, and the same shall be accepted by their constituents, it will be, to all intents and purposes, the law of the State.

Resolved, That the cause of suffrage can only be carried forward by the diffusion of correct doctrine on this subject; therefore, the friends of the cause are under the imperative obligation to aid, by their patronage and influence, in giving a wider and more extended circulation to the organ of this association, the "New Age."

Resolved, That we earnestly recommend to the good citizens of this State, who are in favor of a just and equal government, or, in other words, a government of the people, to form associations in every town in the State, and that their secretaries be requested to correspond with the secretaries of other associations, so that a convention may be called to adopt the plan this evening proposed, or some other plan, which they, in their wisdom, shall devise.

Resolved, That, in the opinion of this association, the two most important objects to be gained in the formation of a constitution is equal representation and a liberal extension of suffrage; therefore, we are of opinion that, to accomplish these objects, all who are interested should be allowed to participate in its formation.

At a meeting of the said association, holden at Providence on the 13th

of April, 1841, the following declaration was reiterated, and the following resolutions passed:

Resolved, That, for the purpose of promoting the furtherance of [the] cause in which we have engaged, we have determined on a parade, to be held on the 17th instant, and that we invite the citizens generally to meet on the occasion.

Schedule F.

Whereas, it is the undeniable right of the people, at all times, peaceably to assemble, for consultation and conference touching the government under which they live, and which they assist in supporting, and independently to utter and set forth, on such occasions of meeting together, their views, sentiments, and plans relative to the correction, as well of defects in the organization of governments, as of faults in the administration of the same.

We, a portion of the people of this State, now assembled at Newport, in mass convention, from all parts of the State, and acting on behalf of the great body of our unenfranchised fellow-citizens, do declare their and our opinions and purposes in the following

Resolutions.

Resolved 1. That it is repugnant to the spirit of the Declaration of American Independence, and derogatory to the character of Rhode Island republicans, to acknowledge the charter of a British king as a constitution of political government.

While we venerate the illustrious names of Roger Williams and John Clarke, to whose untiring ability and perseverance the colony of Rhode Island was indebted for this grant from the throne of England, so well adapted, at the time, to the wants of his majes*ties* subjects, and so liberal in its concessions, we are, at the same time, aware that, in almost all respects, excepting the immortal declaration and guaranty of religious freedom, it has become insufficient and obsolete, that it should be laid aside in the archives of the State, and no longer be permitted to subsist as a barrier against the rights and liberties of the people.

Resolved 2. That, in the opinion of this convention, on the occurrence of the American Revolution, when the ties of allegiance which bound the subjects of this colony to the throne of England were dissolved, the rights of sovereignty, in accordance with the principles of republican government, passed to the whole body of the people of this State, and not to any special or favored portion of the same; that the whole people were, and are, the just and rightful successors of the British king, and, as such, were, and are, entitled to alter, amend, or annul the form and provisions of government then and now subsisting, with the sole restriction imposed by the Constitution of the United States; and, in their original and sovereign capacity, to devise and establish such a constitution as they may deem to [be] best adapted to the general welfare.

Resolved 3. That no lapse of time can bar the sovereignty inherent in the people of this State; and that their omission to form a constitution,

and their tolerations of the abuses under which they have so long labored, are to be regarded as proof that long suffering and forbearance, rather than as arguments against their power and their capacity to right themselves, whenever, in their opinion, redress from the government at present subsisting is hopeless.

Resolved 4th. That the time has now fully arrived for a vigorous and concentrated effort to accomplish a thorough and permanent reform in the political institutions of this State.

Resolved 5. That a system of government, under which the legislative body exercises power, undefined and uncontrolled by fundamental laws, according to its own "especial grace, certain knowledge, and mere motion," and limits, and restricts, and makes, and unmakes the people at its pleasure, is anti-republican and odious in its character and operations, at war with the spirit of the age, and repugnant to the feelings of every right minded Rhode Island man, and ought to be abeted.

Resolved 6. That the public good imperatively requires that the powers of the legislature, and the rights of the citizens, should be defined and fixed by a written State constitution.

Resolved 7. That the representation of the town in the general assembly, as originally established by the provisions of the charter of King Charles 2d, had reference to the then existing population of the same, and was, at that time, not unfairly adjusted to it; but that by the great increase of population in the towns, the existing apportionment has become exceedingly unequal and unjust in its operation, and that a new assignment of representatives among the towns, according to population, will be an indispensable article in a constitution for this State. A majority of the representatives to the general assembly are now elected by towns containing less than one-third of the population of the State; and some of the towns from twice to twenty times what they are entitled to under the just principle of distribution above named, an inequality not uncommon in the monarchies of Europe, but, with the single exception of Rhode Island, unknown in the United States.

Resolved 8th. That at the foundation of this State, and long after, property in land was not only the principal property of the citizens, but was so easily attainable that a landed qualification for voters (first definitely established in the colony by the legislature in 1724) excluded only a small portion of the people from political power, but that the circumstances of the people have since greatly changed, and that the existing qualifications for voting has the effect, contrary to the designs of those who first established it, of excluding the great majority of 16,000 or 25,000 over the age of twenty-one years, from all political privileges and participation in the affairs of government; and that, although we entertain a high and becoming respect for farmers, and their just influences in this State, we are not insensible to the merits of their younger sons, of the mechanics, the merchants, the working men, and others, who own no lands; and that we are of opinion, that the longer continuance of a landed qualification for voters is a great injustice, and is contrary to the spirit and principles of a republican government; and that a con-

stitution for this State will be altogether insufficient, unsatisfactory, and impracticable, that does not restore to the body of the people of this State the rights and privileges of American citizens.

Resolved 9*th.* That a continuance of the provisions of the charter relating to representation, and of the act of the legislature requiring a freehold estate to entitle a citizen to vote for public officers, has the effect not only to vest the control of the general assembly, as we have before seen, in less than one-third of the population, but as the voters in this third are only a third part of the whole number of male adult citizens, this further effect also, the most odious of all, of placing the control of the assembly and of the State in one ninth part of its adult population, or in other words, in the hands of less than three thousand men out of twenty-five thousand, who are over twenty-one years of age.

Resolved 10*th.* That such a state of things is a bold and hardy defiance of all popular rights, and is a total departure from the principle avowed at the first session of the general assembly, in the year 1647, who then solemnly declared and voted that the government of this State should be a democracy.

Resolved 11*th.* That the American system of government [?] of men, and not of property, and that while it provides for the ample protection, and safe enjoyment, and transmission of property, it confers upon it no political advantages, but regards all men as free and equal, and exacts from them no price for the exercise of their birth-right, and that therefore the undoubted rights and privileges of the people, as well as the true honor and prosperity of the State, can only be completely obtained and permanently insured by a written constitution, whose framers shall be chosen from the people of the towns in proportion to population, and which shall be approved and ratified by the people at large; and that, in the exercise of this high act of sovereignty, every American citizen, whose actual permanent residence or home is in this State, has a right to participate; and we accordingly pledge ourselves individually to each other, and collectively to the public, that we will use our unremitting exertions for such a constitution in the way that has been described.

Resolved 12*th.* That we disclaim all action with, or for, any political party, in this great question of State rights, reserving to ourselves, individually, our own opinions on all matters of State national politics, which we call upon no man to sacrifice; and that we heartily invite the earnest co-operation of men of all political parties in the cause which we have at heart, and which we believe to be the cause of liberty, equality, and justice to all men.

Resolved 13*th.* That the general assembly should have called the convention to frame a constitution in such a manner as to apportion the delegates to the convention among the several towns according to population, and to give to every American citizen as aforesaid the right of voting for delegates, and for the constitution which may be proposed for the ratification of the people.

Resolved 14*th.* That the friends of reform in each town be requested forthwith to establish an association for the purpose of a better organi-

zation, for correspondence, and generally for the promotion of the objects of this convention.

Resolved 15*th.* That a State committee of eleven persons be appointed by this convention to correspond with the associations of the several towns, and to carry forward the cause of reform and equal rights, and to call a convention of delegates to draft a constitution at as early a day as possible.

Resolved 16*th.* That the State committee be requested to obtain without delay a list of all the citizens in the several towns, who are ready to vote for and sustain a constitution based on the principles hereinbefore declared, and to present the same at the adjourned meeting.

Resolved 17*th.* That the State committee be requested to prepare and send forth an address to the people of this State, on the subjects contained in the foregoing resolutions, and to report proceedings at an adjourned meeting.

Resolved 18*th.* That a copy of these resolutions be transmitted to the governor, to the lieut. governor, and to each member of the senate and house of representatives, whose attention is especially and respectfully asked to the resolution relative to the call of the convention for framing a constitution.

Resolved 19*th.* That the support and patronage of all the friends of reform is urgently requested on behalf of the "New Age," a newspaper exclusively devoted to the cause which we have this day assembled to promote.

Resolved 20*th.* That these resolutions be signed by the president and secretary of the convention, and published in the several newspapers throughout the State, and that the publishers be requested to give them a gratuitous insertion in their respective papers.

Resolved 21*st.* That this convention, when it adjourns, will adjourn to meet at Providence on the 5th day of July next.

The following gentlemen were then appointed a State committee in accordance with the 15th resolution:

Newport county.—Hon. Charles Collins, hon. Dutee J. Pearce.
Providence county.—Samuel H. Wales, Benj'n Arnold, jr.
Washington county.—William S. Peckam, Sylvester Himes.
Kent county.—Silas Weaver, Emanuel Rice.
Bristol county.—Samuel Allen, Benjamin M. Bosworth.

Schedule G.

Resolved, That on this the anniversary (5th July, 1841,) [of] our national independence we recur with emotions of deep and patriotic gratitude to the principles, the measures, and the men of the American revolution.

Resolved, That the doctrines of liberty and equality first promulgated in modern times by the immortal founders of our State, and re-asserted by the illustrious author of the Declaration of Independence, lie at the foundation of all that is just and free in our political institutions; and that the vindication of these doctrines when impaired, and the develop-

ment of them in all their force and effect, are duties of the most sacred and imperative obligations, and enjoined upon us by the venerable fathers, who being dead, yet speak to us by our character as republicans and as men, and by a regard to the rights and interests of our successors.

Resolved, That in the language of Jefferson, "it is not only the right but the duty of those now on the stage of action to change the laws and institutions of government, to keep pace with the progress of knowledge, the lights of science, and the amelioration of the condition of society;" and that "nothing is to be considered unchangeable, but the inherent and inalienable rights of men."

Resolved, That the political institutions of this State have long since lost their character of liberty and equality which belong to a republic; and that inasmuch as, in the words of Washington, "the basis of our political institutions is the right of the people to make and to alter their constitutions of government," it has now become the duty of the people of Rhode Island, acting upon the principles which have been recited, and animated by the example of their patriotic ancestors to apply, with a firm hand, without unnecessary delay, and in their original and sovereign capacity, the necessary corrective to existing political evils, by the formation and adoption of a written republican State constitution.

Resolved, That we unanimously and cordially reaffirm the views, sentiments, and plans set forth in their resolutions by the convention of the friends of equal rights, held at Newport on the 5th day of May last; and that, inasmuch as the general assembly of this State, at their late session in June, have finally decided that the freeholders are exclusively the people of Rhode Island, and have denied to the great majority of the people, so far as it is in their power thus to deny, any participation in the convention to be held in November next, the time has now fully arrived for the people, in their original and sovereign capacity, to exercise their reserved rights; and that we heartily approve the call by the State committee of the people's convention, on the basis of the resolutions aforesaid, at an early day for the formation of a constitution.

Resolved, That when the constitution so formed shall be adopted by a majority of the whole people of the State, by their signatures or otherwise, as the convention may provide, we will sustain and carry into effect said constitution by all necessary means; and that, so far as in us lies, we will remove all obstacles to its successful establishment and operation; and we hereunto solemnly pledge ourselves to each other and the public.

Resolved, That we hail with pleasure the presence among us of the venerable remnants of our revolutionary worthies, and entertain the hope that they may be spared to witness another anniversary, when they will be deemed not only worthy of shedding their blood for the defence of their country, but of voting for their rulers, and of taking an equal share of the concerns of government.

Resolved, That we enter our solemn protest against the principles upon which the land-holders' convention is called; as by that call a large majority of the people of this State are excluded from a participation in

the choice of delegates to frame a constitution, by the provisions of which they are to be governed.

Resolved, That we deny the authority of the legislature to prescribe or prevent any portion of our fellow-citizens, who are permanent residents of this State, from a participation in the organization of the government, which is to effect the rights and privileges of all.

Resolved, That it is contrary to the spirit of a republican government for a minority to make laws that shall bind the majority; and that we will resist to the utmost of our ability a government that shall not acknowledge the just rights of the whole people.

Resolved, That we will use all honorable means within our power to have every American citizen, who is a permanent resident in this State, represented in the convention for framing a constitution that shall define the powers of the legislature, and secure to the people the free exercise of their rights and privileges.

By a vote of said mass convention the following gentlemen were added to the State committee, viz:

Newport county.—Silas Sisson.

Providence county.—Henry L. Webster, Phillip B. Stiness, Metcalf Marsh.

Bristol county.—Abijah Luce.

Kent county.—John Brown, John B. Sheldon.

Washington county.—Wager Weiden, Charles Allen.

Schedule H a.

At the May session of the general assembly, 1841, the following resolutions, passed in amendment, or in addition, to those passed in January of the same year. They are as follows, viz:

Resolved, by this general assembly, (the senate concurring with the house of representatives therein,) that the delegates from the several towns to the State convention to be holden in November next, for the purpose of framing a State constitution, be elected on the basis of population in the following manner, to wit: every town of not more than eight hundred and fifty inhabitants, may elect one delegate; of more than eight hundred and fifty, and not more than three thousand inhabitants, two delegates; of more than three thousand, and not more than six thousand inhabitants, three delegates; of more than six thousand, and not more than ten thousand inhabitants, four delegates; of more than ten thousand, and not more than fifteen thousand inhabitants, five delegates; of more than fifteen thousand inhabitants, six delegates.

Resolved, That the delegates attending said convention be entitled to receive, from the government treasury, the same pay as members of the general assembly.

Resolved, That so much of the resolutions, to which these are an amendment, as is not inconsistent therewith, be repealed.

Schedule H b.

An act calling a convention of the people to frame a written constitution for this State.

Be it enacted by the general assembly as follows:

Section 1. The citizens of the several towns in this State, and of the city of Providence, are hereby requested to choose, at the semi-annual town and ward meetings in August next, for the election of representatives to the general assembly, delegates to a convention, to be held at Providence on the first Monday of November, 1841, to frame a written constitution of government for this State.

Sec. 2. The delegates to said convention shall be apportioned to the towns and cities aforesaid, as nearly as may be in the ratio of one delegate to every thousand inhabitants, as follows:

Newport	shall be entitled	to elect	8	delegates.
Portsmouth	"	"	2	"
Middletown	"	"	1	"
Tiverton	"	"	3	"
L. Compton	"	"	1	"
N. Shoreham	"	"	1	"
Jamestown	"	"	1	"
Providence	"	"	18	"
N. Providence	"	"	4	"
Smithfield	"	"	9	"
Cumberland	"	"	5	"
Scituate	"	"	4	"
Cranston	"	"	8	"
Johnston	"	"	2	"
Gloucester	"	"	2	"
Foster	"	"	2	"
Burrillville	"	"	2	"
S. Kingston	"	"	4	"
Westerly	"	"	2	"
N. Kingston	"	"	3	"
Exeter	"	"	2	"
Charlestown	"	"	1	"
Hopkinton	"	"	2	"
Richmond	"	"	1	"
Warwick	"	"	7	"
Coventry	"	"	3	"
E. Greenwich	"	"	2	"
W. Greenwich	"	"	1	"
Bristol	"	"	3	"
Warren	"	"	2	"
Barrington	"	"	1	"

Sec. 2. In the city of Providence each ward shall be entitled to three delegates, who shall be chosen by the resident voters in the same; and the mayor and aldermen of said city shall furnish separate certificates of election to the delegates of each ward respectively.

Sec. 3. Any person who is entitled to vote under this act, may be elected a delegate.

Sec. 4. Every male inhabitant of this State, of the age of twenty-one years, who is a citizen of the United States, and who has resided in this State for two years, and in the town or city where he offers to vote for three months next previous to the day of town and ward meetings aforesaid, (persons insane, under guardianship, and convict, excepted,) shall be entitled to vote in the choice of delegates, and upon the question whether the constitution submitted to the people shall be ratified or rejected.

Sec. 5. "Any person who shall be challenged on either of the occasions of voting as aforesaid, for want of any of the qualifications of a voter prescribed in section 4," shall be examined, on oath, by the moderator or warden, and if he shall swear to his qualification or qualifications, he shall be admitted to vote. Any person who shall commit perjury, in falsely swearing to his qualification or qualifications as aforesaid, shall, on conviction by a competent court, be sentenced to the State penitentiary for a term not less than three months, nor exceeding one year.

Sec. 6. The voters for delegates, and upon the proposed constitution, and under this act, shall vote by ballot. They shall not be required to write their names upon their tickets; and they shall deposit their votes in close boxes, to be provided by the clerk for that purpose. It is hereby made the duty of the town clerks, and of the wardens in the city of Providence, to record, in alphabetical lists, the names of every voter as he deposites his vote, and to return certified copies of said lists to the office of the town clerks, and of the city clerk of Providence, to be preserved on file. Every town clerk, and every warden, who shall neglect for five days to make such return of the certified lists of voters aforesaid, shall pay a fine of five hundred dollars—to be recovered by indictment for the use of the State, before any competent court.

Sec. 7. A majority of the whole number of delegates whom all the towns and the city of Providence are entitled to choose, shall constitute a quorum; who may elect a president and secretaries; judge of the qualifications of the members; and establish such rule of order, and direct such proceedings, as they may think necessary; and any town or city which may omit to elect its delegates at said meetings in August, may elect at any time previous to the meeting of said convention.

Sec. 8. The constitution agreed upon by said convention shall be submitted to the voters qualified as aforesaid, in open town or ward meetings, to be held at such time as may be appointed by said convention. The said constitution shall be certified by the president and secretaries, and returned to the secretary of State, who shall forthwith distribute to the several towns and city clerks, in due proportion, for the information of the citizens, thirty thousand printed copies thereof, and also forty thousand ballots; on one side of which shall be printed, "constitution framed by the convention held at Providence, on the first Monday of November last," and on the other side the word "approve," on one half of the said ballots, and the word "reject," on the other half.

Sec. 9. On the days of voting under this act, the polls shall be opened in every town, and in the city of Providence, at 10 o'clock, A. M., and shall not be closed before sunset.

Sec. 10. The ballots given for and against the constitution, shall be sealed up in open town or ward meetings by the clerks, in the presence of at least ten voters; and, with lists of the names of the voters, shall be returned to the general assembly at its next succeeding session; and the general assembly shall forthwith cause said ballots to be examined and counted. If the said constitution be approved by a majority of the citizens voting, it shall go into operation and effect at such time as the convention shall have appointed.

Sec. 11. The members of the convention shall receive the same compensation as the members of the general assembly, to be paid to them by the general treasurer, on certificate of one of the secretaries; and a sum not exceeding 500 dollars is hereby appropriated for defraying the expenses of the convention, to be paid by the general treasurer according to the orders of said convention, certified by its president.

Sec. 12. The resolutions passed at the January session, 1841, requesting the freemen to choose delegates to the convention therein named, are hereby repealed.

Endorsed: An act calling a convention. Not recommended.

H. Y. CRANSTON, *for the committee.*

Rejected, 51 to 10, June 25, '41.

I a.

Mr. Atwell, from the committee on the judiciary, to whom the above act was referred, reported the same as a minority report, with the following amendments:

"Strike out second section, and substitute therefor the first resolution of the resolves of May, 1841. In section 4, "line 6," after the word "excepted," add the words "and who shall have paid town or State taxes, assessed on real or personal estate, at any time during one year next before the time of his such voting." In line 1, sec. 4, insert "free white" after the first word "every."

Add to sec. 12, the 2d and 3d resolutions on this subject, passed at the May session, 1841.

True copies from the files of the house of representatives.

THOMAS A. JENCKES, *Clerk.*

I b.

Copy from the records of the house.

Under date of Friday, May 7, 1841—

An act calling a convention of the people to frame a written constitution for this State, introduced by Mr. Atwell; read first time and referred to Judiciary committee.

Under date of Friday, June 25—

The morning was consumed in debate, mostly between Mr. Atwell and Mr. Ames, on the act (No. 44, May session) calling a convention of

the people to frame a constitution, which was not concluded when the house adjourned till 3 o'clock, P. M.

P. M. The discussion was resumed upon the act calling a convention, which was participated in by Mr. Ames and Mr. Atwell, and briefly by several others. The house was then called on the passage of the bill, when the ayes and noes stood as follows:

Ayes—Atwell, Baker, Ballou, A. Church, jr., Cooke, Gavitt, C. G. Greene, Hall, Randall, C. Robinson—10.

Noes—Mr. Speaker, Ames, Arnold, Babcock, Barber, Bateman, Brayton, Brown, Burgess, Burton, Chase, Childs, Church, S. Clarke, Cole, Crandall, Cranston, Drown, G. Greene, Holdridge, Kenyon, King, Lewis, Low, G. Manchester, W. Manchester, Mathewson, Moss, Mowry, Newton, Pearce, Perry, Randolph, W. A. Robinson, Rose, Sands, Shaw, Slocum, Smith, Spencer, W. Sprague, A. Sprague, Stead, Taggart, Vaughn, E. Watson, jr., R. H. Watson, Weaver, Westcott, Whipple, Wilbur, Wilkinson—52.

So the bill was lost."

A true copy from the records of the house of representatives.

THOMAS A. JENCKES, *Clerk.*

Schedule J a.

State Constitution.

A call to the people of Rhode Island to assemble in convention.

At a mass convention of the friends of equal rights, and of a WRITTEN REPUBLICAN CONSTITUTION for this State, held at Newport, on the 5th day of May, 1841, the following persons were appointed a STATE COMMITTEE, for the furtherance of the cause which the convention had assembled to promote, viz:

Newport county.—Charles Collins, Dutee J. Pearce, Silas Sisson.

Providence county.—Samuel H. Wales, Benj'n Arnold, jr., Welcome B. Sales, Henry L. Webster, Phillip B. Stiness, Metcalf Marsh.

Bristol county.—Benj'n M. Bosworth, Samuel S. Allen, Abijah Luce.

Kent county.—Emanuel Rice, Silas Weaver, John B. Sheldon.

Washington county.—Sylvester Himes, Wager Weeden, Charles Allen.

The State committee were directed "to carry forward the cause of reform and equal rights, and to call a convention of delegates to draft a constitution at as early a day as possible."

At an adjourned meeting of said mass convention, held at Providence, on the 5th day of July, the instructions before given were re-affirmed, and the committee were directed to call a convention of the people, on the basis of the resolutions passed at Newport, "at an early day for the formation of a constitution."

Pursuing these instructions, the committee held a meeting at Providence, on the 20th of July, and in conformity with the eleventh resolution, adopted at Newport, which prescribes the call of a convention of the people at large, to be represented in proportion to population, passed

unanimously the following resolutions for the call of a popular convention:

Voted, That we proceed to issue a call for the election of delegates to take place on the last Saturday in August, (the 28th day) to attend a convention to be holden at the State-house, in Providence, on the first Monday in October, (the 4th day,) for framing a constitution to be laid before the people for their adoption.

Voted, That every American male citizen, twenty-one years of age and upwards, who has resided in this State one year preceding the election of delegates, shall vote for delegates to the convention called by the State committee to be held at the State-house, in Providence, on the first Monday in October next.

Voted, That every meeting holden for the election of delegates to the State convention, shall be organized by the election of a chairman and secretary, whose certificate shall be required of the delegates.

Voted, That each town, of one thousand inhabitants, or less, shall be entitled to one delegate, and for every additional thousand one delegate shall be appointed, and the city of Providence shall elect three delegates from each ward in the city.

Voted, That the chairman and secretary be directed to cause one thousand handbills to be printed and distributed through the State, containing the call for a convention of delegates.

Voted, That the proceedings of this meeting be signed by the chairman and secretary, and be published.

On motion, Voted, That this meeting stand adjourned to meet at this place on the first day of September, at 11 o'clock, A. M.

Fellow-citizens: We have discharged our duty in the call of a convention of the whole people to provide for the attainment and security of those invaluable rights which have so long been withheld from them, and without which they are but subjects and slaves in a State only nominally republican.

Depend upon it, that a spirit has been awakened in this State which cannot be intimidated nor repressed; which has suffered long, until patience has ceased to be a virtue; and which, regarding the republican institutions everywhere else enjoyed but here, and prompted by our venerable and patriotic ancestors, the first to assert the true principles of religious and political freedom, will brook no further delay; and which cannot be more appropriately expressed than when we say, in behalf of the great majority of the people, ☞ Give us our rights, or we will take them.

We ask for nothing that is not clearly right, and we are determined to submit to nothing so manifestly wrong as the corrupt and anti-republican system of government which has so long subsisted in Rhode Island by the forbearance of the people.

Bear in mind that there is no constitutional mode of amending our government except by the people at large, in whom, as the successors to the king of England, the sovereign power resides, and remains unimpaired by any lapse of time, or toleration of past abuses.

That there is no bill of rights in this State except that granted by the legislature, and which they can, at any moment, resume and annul.

That the general assembly is a body irresponsible to the majority of the people, restricted by no constitutional rule of action, virtually omnipotent—making and unmaking the people—doing and undoing what it pleases, according to its "especial grace, certain knowledge, and mere motion," in imitation, upon a smaller scale, of the monarchy of Great Britain.

That the system of representation to this assembly is also the rotten borough system of Great Britain, now partially reformed; by which system, in this State, a third of the freemen, and one-ninth of the people, command the house of representatives.

That, by reason of a landed qualification, which it is impossible for the great majority to obtain, two-thirds of the people are ousted of the birthright acquired for them by their fathers, and are governed, taxed, compelled to do military duty, and subjected, in all respects, to the will and pleasure of one third, with the sole restriction imposed by the Constitution of the United States.

Instead of enumerating other particulars, we only say, ☞ Look at the history of Rhode Island legislation.

Fellow-citizens: It is these evils to which the great unenfranchised majority, acting in their original sovereign capacity, purpose and intend to apply an effectual remedy. We ask your aid and assistance in this good work. We respectfully urge upon you to assist in the election of delegates to the popular convention to be held in October next, not as the friends or opponents of any political party now existing in this State, but as the friends of justice, of humanity, of liberty, of equal rights, of well regulated constitutional government.

Do not be deceived by the freeholders' convention called for November next. It is a gross fraud upon the people. The designs of its originators was to chrystalize, in a stronger form, the present statute provisions relating to suffrage, and to place them beyond the reach of amendment, except by the hand of force.

Once more, we say to the unenfranchised mass of our brethren and our fellow-citizens, your rights are in your own hands—assert and vindicate them like men determined to be free. See to it, that a meeting for the choice of delegates is duly held in every town, and its proportional number is regularly elected. Summon your friends and neighbors to the work; and, rely upon it, that a constitution, framed by such a convention, and signed by a majority of the people, will be promptly acquiesced in by the minority, will be vigorously sustained, and will become, without delay, the undisputed paramount law of our State.

By order, and in behalf of the State committee.

SAMUEL H. WALES, *Chairman.*

BENJA. ARNOLD, *Sec'y.*

PROVIDENCE, *July 24th*, 1841.

Schedule J b.

Address of the State committee appointed by the suffrage convention at Newport, May 5th, 1841, for the purpose of calling a convention to form a constitution for this State.

FELLOW CITIZENS: The undersigned, a committee of those friendly to the formation of a State constitution, and to the extension of suffrage in this State, beg leave to address you on the important subject, and to call your attention to some of the considerations which actuate the friends of reform, as well as to the means considered by them best calculated to effect the ultimate object in view. In doing this, it is neither our intention nor disposition to create feelings of hostility between our fellow citizens, who may honestly differ from each other in the question of expediency or political right, but to excite the public mind to calm discussion and rational investigation, being morally certain that such a course will fully develope the justice of our cause, and lead to the consummation of our wishes in a manner that shall give universal satisfaction.

To all who are acquainted with human character and human passions, it is well known, that power and pre-eminence constitute darling objects of ambition; and that human ingenuity, aided by interest and pre-possession, and more especially sanctioned by custom, habit, and the force of education, is seldom at a loss for the semblance of argument to satisfy us of our rights to that which we hold in possession. For these reasons, we can readily account for the hostility hitherto manifested by a great proportion of the landholders of Rhode Island against reform in our State government, and an extension of the right of suffrage, without attributing to them the unqualified determination to act with injustice towards others.

The manner in which the territory of the State was originally acquired, the form of government established under the auspices of the British crown, the quiet submission of the people to that form of government since the American revolution, the principles in accordance which it handed down from generation to generation, and the firm conviction of the friends of the present system, that it is most conducive to the best interests of the State, all operate on the landholders; and honestly, in most instances, we have reason to believe, they are thus induced to act against what we deem to be the rights of others.

That the original colonists of Rhode Island settling on lands they had purchased as a company, had the incontrovertible right, as proprietors under the crown, to institute such rules and regulations for the management of their affairs as they pleased, and as the grant from the crown permitted them to do, it is believed no one will deny. And as at the period of the revolution, no measures were instituted to change the form to conform to the change of circumstances; and as also the people have hitherto neglected to effect such a change, the impression has come down to the present period, that the original form of government still continues in full force by virtue of the right of the original colonists to institute it, and that it cannot rightly be changed, but either by the voluntary act or

at least by the consent of their successors in possession. As we ask for nothing but the right, permit us to examine this point.

It must be recollected, that the original settlers of Rhode Island neither claimed nor exercised any other rights than were granted and guarantied by the British crown. Their jurisdiction, therefore, was neither original nor independent, but was both derived and subordinate, and its entire force was the royal sanction and guaranty. And even their right to the soil by purchase of the natives could have given them no exclusive right of possession, but by force of the royal patent. Did the same or similar circumstances now exist, it is readily acknowledged that the now freeholders could set forth no legal claim to participation in the government, and but two events (one or both) could occur to extend to them that privilege, or to legalize the claim. In the first instance, the freemen might grant it. In the second place, the royal charter might be revoked, or be rendered null and void by the destruction of the royal authority. It cannot be doubted, that had the entire British relme been revolutionized, instead of only her American colonies, and the declaration of the universal natural equality of man been adopted as the basis of government, the people of Rhode Island, in common with all their fellow citizens of the nation, would have been thrown back on their natural rights, and relieved from their subjection to the royal will, claimed and exercised the right to frame and adopt a government in obedience to the will of a majority only.

In no other way could a legitimate government have been formed; for the only governmental power and authority, except what originally resided in the people themselves, would thus have been annihilated.

Such precisely would have been the character and effect of the revolution under Oliver Cromwell, had he and his associates proceeded on the principles adopted by our revolutionary fathers; and such also the French revolution of 1792–'3 and 1828. But the American revolution produced precisely the state of affairs in the revolted colonies as though the king had been driven from the throne, royalty proscribed, monarchy abolished, all ranks and distinctions among men obliterated, the government dissolved, and its powers restored to her exercised of right by the whole people.

As to the colonies, all this did take place, and no statesman who values his reputation as such, will hazard the assertion, that the slightest claim of force in our government can be erected on the grant and sanction of our former sovereign or his successors. On what then does the claim rest? First, on the ownership of the soil. Did our landholders still continue simply a body corporate, permitted to regulate their company affairs under a foreign jurisdiction that ground would be valid. But circumstances have changed. The body corporate has merged in a sovereign and independent State. The very acts by which that sovereignty and independence were declared and established, created freeholders and non-freeholders a body of politicial equals. It recognized the *original rights* and not the *acquired* privilege of the *governed* without discrimination to exercise powers inherent in them, and "indefeasible" as well as "un-

alienable" to be consulted and heard, and also to act on the question how they should or would be governed. The freemen or landholders of Rhode Island consented to this act and to these principles. On that condition the State was incorporated into the American Union. From that moment she placed herself under a new jurisdiction, the government of the people. And from that moment, also, the people, all the people, whom the American revolutionary and constitutional principles recognized as the original source and rightful possessors of all political power, re-assumed and might have exercised the right to erect a government for themselves.

But in the second place, it is confidently asserted, that the people having quietly submitted to the government as it is, that government has become prescriptive, and that thus the non-freeholders have lost the right to demand or effect a change, even if they ever possessed it. We do not thus view the subject, and we believe that those who assert this principle are altogether in error. That our government is prescriptive we admit, but we do not admit that it can invalidate our original right. A government by prescription, or by custom, certainly cannot claim the force of one that has received the formal sanction of the people; and if it could, we, as republicans, assert without fear of contradiction, that a majority of the *governed* have at any time, and on any occasion, a right to change their government—a right, while being inherent, inalienable, and indefeasible, not even they can part with, by their free and voluntary act, much less can it be taken from them by prescription, or by precedent, or by any act of their predecessors. We declare it, therefore, as our solemn conviction, a conviction strengthened and confirmed by the principles and acts of the most eminent statesmen, that a majority of the citizens of this or of any other State, have the incontrovertible right at any time they may choose to assemble together, and either by themselves or by their delegates, to alter, amend, annul, or reform their government at pleasure; always controlled by the dictates of natural law, that the legitimate end of government is the good of the whole in general, and of each individual in particular. To suppose that, under such a political system as that of the American Union, the fundamental basis of which is, the sovereignty of the people, one generation can bind those who succeed it to any principles or form of government, or that prescription or custom should divest them of the right of change, is preposterous. It is, moreover, the doctrine of tyranny, and once established, the sovereignty of the people is destroyed.

Without fear of contradiction, therefore, we aver, that even had the present form of government been formerly sanctioned by the people of Rhode Island, which it never was, they could be bound to its provisions no longer than during their own pleasure. The original power and sovereignty of the people are never relinquished—they cannot be, for they are *unalienable* and *indefeasible*. They are merely delegated to be exercised for certain purposes; and whenever those who delegated them become satisfied, that the contemplated object has not been, and will not be gained by their exercise, they have the right to resume them, and to use them as they please.

Such is the doctrine of natural law, and such, also, is the doctrine of the declaration of American independence, which has been engrafted on the American Constitution.

It is in vain that the portion of Rhode Island citizens called freemen, or a part of them, assert that a change in the form and principles of our government is inexpedient, inasmuch as it is asserted by them that a change would not benefit the State. This *as* assertion only, and rests on mere speculative conjecture; right claims precedence of expediency. It is enough for us to know, and on this point we are certain, that a majority of the citizens of the State are deprived by the existing government of the rights which their Creator bestowed on them, and which, the principles which constitute the very basis of the National Government sanction and guarantee. A participation in the government of the State they have the right to demand and to assume. It is not a question whether the minority are willing to entrust the exercise of the political powers in the hands of the majority, or prefer to retain it themselves. The question is not, will the State be better or worse governed in consequence of a change. It is a simple question of individual right, and the claim is one which cannot be successfully denied. The disfranchised citizens are among the "*governed*,"—among those, therefore, for whose benefit government is or should be instituted—among those from whom the powers of government are or should be derived. Hence their right is unquestionable to a voice as to a disposition of those powers and their exercise, and the fitness of the government, and its adoption to the end proposed—the good of the governed. This is their right; this right they claim; they constitute the majority; with them, therefore, is the right to decide. And they presume themselves to be, and will be found to be, as capable of judging correctly, and acting wisely, as to the true ends of government, as are the minority, who now exercise all its functions. It will be time enough to talk of the result after the change has been effected. If it be evil, the people will not long submit to it—if good, right will have been done, and the welfare of the State secured.

But why talk of the present system of government! We have no fixed system. Every system of government, or any thing else, is made up of certain fundamental rules and principles, from which those who act upon it are not at liberty to depart. Every science and art has its fixed rules and principles, and these constitute their system. Our National Government has its system—the Constitution—the work of the people—of the governed—fixing metes and bounds to the power and authority of the several departments, prescribing definite principles of action, and circumscribing the legislative, executive, and judicial servants of the nation, by limits they dare not overstep. Such is the case with all the States, except our own. These are the only legal barriers against usurpation, misrule, and despotism. When these are violated at the expense of official perjury, the people have their remedy under those systems of government; but without them, the minority, and even the disfranchised majority, have no other security for their dearest rights

than force and arms, always precarious, and frequently resulting in violence and blood. The only guarantee of rights to the people of Rhode Island is the Constitution of the United States. We have no constitution, no system of government. Even the rights of franchise, the basis of every free "elective government," and the most valuable privilege of the free citizens, is in the hands of the legislative body, unguarded by any popular barrier, to be modified to any form the majority of the legislature may think proper, to gratify their own ambition, or to promote party objects. Thus the right of suffrage is the subject of continual fluctuation and change at the hand of parties, as one or the other may obtain the power, and as may appear best calculated to perpetuate its hold on power, and to baffle the efforts of opponents. It is a solemn fact, and one that admits of no denial, that the general assembly may, if a majority of that body choose, at its very next session, and without a moment's warning to the people of the State, repeal every syllable of law relative to the elective franchise, and enact another law as entirely different from it as possible, and indeed effect one entire change in the policy of the State; and there is neither constitution, law, nor precedent, to the contrary. Should such abuses occur, where is the remedy of the people? No constitutional principles are violated, because we have none to violate. Precedent could not be appealed to, because all precedent in Rhode Island is but a continual exhibition of the exercise of unqualified and unlimited legislative powers. Laws could not be resorted to, because all former ones having been repealed, new ones would be enacted to suit the occasion. An appeal to the legislature would of course be fruitless, as that body would not sit as judges to condemn themselves. Resort to courts of law would be useless, as they have no constitutional principles to guide them. Their criterion is the legislative action; and except where provisions of the Constitution of the United States are involved, or questions of common law, the court of Rhode Island, the creatures of legislative power, exist, sit, and act, only to carry out the legislative will; whereas, in other States, the people can always appeal from that will, through the courts themselves, to the constitution which they have adopted; thus, by means of the action of their own original powers, compelling both courts and legislative bodies to act within the limits the people themselves have marked out.

But, we repeat it, the people of Rhode Island have no one of the above safeguards. From the town constable to the chief justice of the highest court—from the waiter in the house of representatives to the governor who presides at the senate board—all are free from constitutional restraint—all free from popular restraint. The sole power centres in the general assembly; and that power is independent and politically omnipotent. To what resort, then, can the people flee for redress, when that power shall have been grossly abused? There are but two modes left them: 1. The ballot box. 2. The resumption and exercise of their original natural rights and powers. First, then, to the ballot box; and now let us turn our attention to this subject for a moment, and see how far that resort would be available.

Suppose, then, the advocates of right and justice, or the friends of the present government and laws, should come forward with sufficient strength to the polls to eject from the seat of power men who had rendered themselves obnoxious by acts of usurpation and misrule, what stronger guarantee would you receive from their successors that they would reform abuses than the individual pledges of perhaps ambitious and interested political partizans. And even should pledges be redeemed, what assurance could you have that another body, in another year, would not revisit you with greater evils than those which had been removed? Each general assembly, the State being destitute of constitutional provisions, is an independent body, acting solely on its own responsibility, guided only by its own principles of action, and its own rules; and the people have no other means of restraint upon their actions, than the distant views of the ballot box, and which each general assembly can previously regulate by changing the tenure and qualifications of the elective franchise to suit themselves. The committee would appeal to every reflecting, high minded, and honorable man, and ask, in all candor and sincerity, if the rights and privileges of a people, free by nature, and free by the laws and constitution of our common country, should be thus entrusted to chance or to fortune, or, what is still worse, to the hands of political partizans, to be manufactured at pleasure into political capital to aid the cause of aspiring ambition? Can any people be safe under such circumstances? Under them, what man that is free to-day can have the assurance that he will not be a slave to-morrow.

What, then, remains, but for the people to resume and exercise their original rights, and to frame for themselves a constitution of government which shall guard and protect them against the exercise of arbitrary power, by prescribing limits to legislative action?

We feel certain that the freemen, or in other words the present voters of the State, would spontaniously, and without legal formality, assemble and institute means of redress in case their own rights were thus invaded.

Thus have the rights of our disfranchised citizens been invaded without intermission from the period of the American Revolution. As far as they are concerned, they have been the subjects of continual usurpation and misrule; and so far have even their civil rights been trampled on, that, without the sanction of a *freeman* or landholder's name, as a master vouches for his slave, they are not known in law or permitted to appear as parties to ask for justice at the hands of a judicial tribunal. And all this, in the very face of the fundamental political doctrine of our nation, that the power is in the governed, and that from them all the just powers of government are derived.

Thus circumstanced, it is quite apparent that the disfranchised citizens of Rhode Island, and who constitute a majority of the whole people, can find no redress through the ballot box from which by law they are excluded.

Nor is it much more likely that they will derive it from legislative aid, the members of the legislature being exclusively the representatives

of the minority who wield the power. Nor yet is there more to hope from the freemen and landholders themselves at the polls, unless contrary to what has heretofore happened, a majority of them have become willing that right and justice should supercede the lust of power.

The committee are happy to believe that a very considerable change has taken place, in this respect, within a short period; and that a very respectable body of the landholders are now advocates for a written constitution, to be framed and adopted by the people, and a liberal and permanent system of suffrage placed beyond the reach of legislative control and interference. The committee congratulate the friends of the cause on this auspicious circumstance; still it must not be disguised that much yet remains to be done.

The friends of reform must depend on their own active energies. The laws of the State are against them—the legislative authority is against them. The custom of more than half a century is against them. And, no doubt, the opinions, interest, political aspirations, and the prejudices and prepossessions of a majority of the landed interests are against them. To the timid mind, and to the mind that has not investigated the subject, all these may present a powerful hostile array. But were they ten thousand times more powerful even than they appear, the rights and privileges of a solitary American citizen are fully worthy of the struggle.

However forbidding the obstacles that may present themselves, however dark and frowning the aspect of the opposition, however threatening the arm of power suspended over us, they are mere shadowy and unsubstantial forms; and a single act of the majority of the whole people of Rhode Island will be found sufficient to sweep them all away.

The people—*the numerical force*—have but to proclaim their will to resume their original powers, and assert their original rights. It is but for the people to arouse themselves to action, to array themselves in the majesty of their strength, and to speak with united voice.

"WE, THE PEOPLE," *decree it*, is a legitimate sanction to the warrant that consigns an unequal government to the grave. WE, THE PEOPLE, the paramount power of a free elective government, have but to speak, and their voice must be obeyed, for their will is the fountain of government and laws.

We, the people, are the original depository of power, and the only source whence government derives its sanction, its strength, and its support; and government thus framed and adopted must be legitimate—must rise superior to all others; and must be sanctioned and sustained by our national councils. For, under the auspices of a free elective republic, based on the great principle of natural equality, and of the popular sovereignty, what authority shall interpose to defeat the will of the popular majority expressed in the formation of a government on similar principles?

We repeat, therefore, the people have but to put forth their energies to resume and exert their original rights and powers, and to speak and act—to assemble of their own accord—to repudiate the existing govern-

ment of the State—to frame and adopt another more congenial to human rights, and to organize themselves under it as a body politic, which a free people have, at all times, the right to do, and demand the fulfillment of the constitutional pledge, which guarantees to every State in the Union a republican form of government.

To do this, fellow-citizens, is your only available and certain course. To do this, unanimity, at least of action, must mark your conduct. Among a great body of men, contending for their rights, some conflicting feelings and opinions on minor points must exist. Of these, among ourselves, probably the most prominent and important is, on what shall be the final extent of the elective franchise, or who shall be admitted to vote at elections?

This question is frequently put, and by it your opponents hope to scatter dissension among your ranks, and to defeat your purpose. But be it borne in mind, that this is a question which now is not the time to answer, nor does it belong to us to answer it. We cannot hope to attain our object without mutual concessions. As the friends of popular right, it becomes us, individually, to abide content by the will of the majority; and it is confidently believed, that no one has united himself with us, and espoused our cause, who will not cheerfully give his sanction to such provisions for the government and well being of the State, as a majority may approve.

To the final decision of the majority, then, let the above question be referred, and not permitted to disturb our harmony or prevent the cordial union and exercise of all our energies to promote the forward progress of our great and just cause. Be firm. Be united. Press forward with zeal and alacrity—use all honorable means to ensure success, and you cannot fail to obtain it.

In due time the committee to whom the duty has been entrusted will issue the call for primary meetings, preliminary to the call of a State convention. Mean while we would urge it on every one engaged in the cause, to use his efforts to harmonize the views and feelings of its friends, to awaken their zeal and arouse them to action; that thus, when the period shall have arrived when it shall be deemed expedient to attempt the consummation of the grand object, there may be no faltering, and that all, like one man, with one body, one heart, one soul, and one object in view, to be gained by one means, may come forth at the call, and practically manifest the indomitable resolution to rescue, preserve, and perpetuate the rights of freemen.

On you, fellow-citizens, under God, depends the issue. If you are resolved, firm, and immoveable, you must succeed, and you will thus transmit to your posterity an invaluable legacy, for which they will bless you. If, through supineness and neglect, you should fail of the object, you leave yourselves, it may be also your descendants, demi-slaves, subject to the exercise of arbitrary power, and destitute of a constitutional guarantee for a solitary right—political or civil.

Your aid, one and all, is confidently expected; let not the friends of freedom in Rhode Island and our sister States be disappointed. LET

GOD AND THE RIGHT, be your motto. Let us remember that, IN UNION THERE IS STRENGTH.

Move with energy, and act with vigor, and your efforts will and must be crowned with success.

State committee.

Newport.—Charles Collins, Dutee J. Pearce.
Providence.—Samuel H. Wales, W. B. Sayles, Benj. Arnold, jr.
Bristol.—Benj. M. Bosworth, Samuel S. Allen.
Kent.—Emanuel Rice, Silas Weaver.
Washington.—Wm. S. Peckham, Sylvester Himes.

At a meeting of the above committee, June 11, 1841, on motion, voted, that the secretary be directed to transmit a copy of this address to each of the editors of the newspapers in this State, and request them to give it a gratuitous insertion in their respective journals.

BENJ. ARNOLD, Jr. *Secretary.*

K.—People's constitution.

Constitution of the State of Rhode Island and Providence Plantations, as finally adopted by the people in December, 1841.

We, the people of the State of Rhode Island and Providence Plantations, grateful to Almighty God for his blessing, vouchsafed to the "lively experiment" of religious and political freedom, here "held forth" by our venerated ancestors, and earnestly imploring the favor of His gracious Providence towards this our attempt to secure, upon a permanent foundation, the advantages of well ordered and rational liberty, and to enlarge and transmit to our successors the inheritance that we have received, do ordain and establish the following constitution of government for this State.

Article first.—Declaration of principles and rights.

1. In the spirit and in the words of Roger Williams, the illustrious founder of this State, and his venerated associates, we declare, "that this government shall be a "Democracy," or government of the people, "by the major consent of the same, only in civil things." The will of the people shall be expressed by representatives, freely chosen, and returned at fixed periods to their constituents. This State shall be, and forever remain, as in the design of its founder, sacred to "soul liberty," to the rights of conscience, to freedom of thought, of expression, and of action, as hereinafter set forth and secured.

2. All men are created free and equal, and are endowed by their Creator with certain natural, inherent, and inalienable rights, among which are life, liberty, the acquisition of property, and the pursuit of happiness. Government cannot create or bestow these rights, which are the gift of God, but it is instituted for the stronger and surer defense of the same, that men may safely enjoy the rights of life and liberty, securely possess and transmit prosperity, and, so far as laws avail, may be successful in the pursuit of happiness.

3. All political power and sovereignty are originally vested in, and of right belong to, the people; all free governments are founded in their authority, and are established for the greatest good of the whole number. The people have, therefore, an inalienable and indefeasible right, in their original, sovereign, and unlimited capacity, to ordain and institute government, and in the same capacity to alter, reform, or totally change the same, whenever their safety or happiness requires.

4. No favor or disfavor ought to be shown in legislation towards any man, or party, or society, or religious denomination. The laws should be made, not for the good of the few but of the many, and the burdens of the State ought to be fairly distributed among its citizens.

5. The diffusion of useful knowledge, and the cultivation of a sound morality in the fear of God, being of the first importance in a republican State, and indispensible to the maintainance of its liberty, it shall be an imperative duty of the legislature to promote the establishment of free schools, and to assist in the support of public education.

6. Every person in this State ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which may be done to his rights of person, property, or character. He ought to obtain right and justice freely and without purchase, completely and without denial, promptly and without delay, conformably to the laws.

7. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but on complaint in writing, upon probable cause, supported by oath or affirmation, and describing, as nearly as may be, the place to be searched, and the person or things to be seized.

8. No person shall be held to answer to a capital or other infamous charge, unless on indictment by a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger. No person shall be tried, after an acquittal, for the same crime or offence.

9. Every man being presumed to be innocent until pronounced guilty by the law, all acts of severity, that are not necessary to secure an accused person, ought to be repressed.

10. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted, and all punishments ought to be proportioned to the offence.

11. All prisoners shall be bailable upon sufficient surety, unless for capital offences, when the proof is evident, or the presumption great. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety shall require it.

12. In all criminal prosecutions, the accused shall have the privilege of a speedy and public trial by an impartial jury; be informed of the nature and cause of the accusation; be confronted with the witnesses against him; have compulsory process to obtain them in his favor, and at the public expense, when necessary; have the assistance of counsel in his defence; and be at liberty to speak for himself. Nor shall he be

deprived of his life, liberty, or property, unless by the judgment of his peers, or the law of the land.

13. The right of trial by jury shall remain inviolate, and in all criminal cases the jury shall judge both of the law and of the facts.

14. Any person in this State who may be claimed to be held to labor or service, under the laws of any other State, territory, or district, shall be entitled to a jury trial, to ascertain the validity of such claim.

15. No man in a court of common law shall be required to criminate himself.

16. Retrospective laws, civil and criminal, are unjust, oppressive, and shall not be made.

17. The people have a right to assemble in a peaceable manner, without molestation or restraint, to consult upon public welfare; a right to give instructions to their senators and representatives; and a right to apply to those invested with the powers of government for redress of grievances, for the repeal of injurious laws, for the correction of faults of administration, and for all other purposes.

18. The liberty of the press being essential to the security of freedom in a State, any citizen may publish his sentiments on any subject, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, spoken from good motives, and for justifiable ends, shall be a sufficient defence to the person charged.

19. Private property shall not be taken for public uses, without just compensation; nor unless the public good require it; nor under any circumstances, until compensation shall have been made, if required.

20. The military shall always be held in strict subordination to the civil authority.

21. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in manner to be prescribed by law.

22. Whereas, Almighty God hath created the mind free, and all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend to beget habits of hypocrisy and meanness; and whereas, a principal object of onr venerated ancestors, in their migration to this country, and their settlement of this State, was, as they expressed it, to hold forth a lively experiment, that a flourishing civil State may stand and be best maintained with full liberty in religious concerments, we, therefore, declare, that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever; nor be enforced, restrained, molested, or burdened in his body or goods, nor disqualified from holding any office, or otherwise suffer, on account of his religious belief; and that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities; and that all other religious rights and privileges of the people of this State, as now enjoyed, shall remain inviolate and inviolable.

23. No witness shall be called in question before the legislature, nor in any court of this State, nor before any magistrate, or other person au-

to day, and may compel the attendance of absent members in such manner and under such penalties as each house may have previously prescribed.

7. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds of its members elected, expel a member; but not the second time for the same cause.

8. Each house shall keep a journal of its proceedings, and publish the same when required by one-fifth of its members. The yeas and nays of the members of either house shall, at the desire of any five members present, be entered on the journal.

9. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that at which the general assembly is holding its session.

10. The senators and representatives shall in all cases of civil process be privileged from arrest during the session of the general assembly, and for two days before its commencement, and two days after the termination of any session thereof. For any speech in debate in either house no member shall be called in question in any other place.

11. The civil and military officers heretofore elected in grand committee shall hereafter be elected annually by the general assembly in joint committee, composed of the two houses of the general assembly, excepting as is otherwise provided in this constitution, and excepting the captains and subalterns of the militia, who shall be elected by the ballots of the members composing their respective companies, in such manner as the general assembly may prescribe; and such officers so elected shall be approved of, and commissioned by the governor, who shall determine their rank; and if said companies shall neglect or refuse to make such elections after being duly notified, then the governor shall appoint suitable persons to fill such offices.

12. Every bill and every resolution requiring the concurrence of the two houses (votes of adjournment excepted) which shall have passed both houses of the general assembly shall be presented to the governor for his revision. If he approve of it, he shall sign and transmit the same to the Secretary of State; but if not, he shall return it to the house in which it shall have originated, with his objections thereto, which shall be entered at large on their journal. The house shall then proceed to reconsider the bill; and if after such reconsideration that house shall pass it by a majority of all the members elected, it shall be sent, with the objections, to the other house, which shall also reconsider it; and if approved by that house by a majority of all the members elected, it shall become a law. If the bill shall not be returned by the governor within forty-eight hours (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return; in which case it shall not be a law.

13. There shall be two sessions of the general assembly in every year; one session to be held in Newport on the first Tuesday of June, for the

organization of the government, the election of officers, and for other business; and one other session on the first Tuesday of January, to be held at Providence, in the first year after the adoption of this constitution, and in every second year thereafter. In the intermediate years the January session shall be forever hereafter held in the counties of Washington, Kent, or Bristol, as the general assembly may determine before their adjournment in June.

Article fifth.—Of the house of representatives.

1. The house of representatives shall consist of members chosen by the electors in the several towns and cities in their respective town and ward meetings annually.

2. The towns and cities shall severally be entitled to elect members according to the proportionment which follows, viz: Newport to elect five, Warwick four, Smithfield five, Cumberland, North Providence, and Scituate three, Portsmouth, Westerly, New Shoreham, North Kingston, South Kingston, East Greenwich, Gloucester, West Greenwich, Coventry, Exeter, Bristol, Tiverton, Little Compton, Warren, Richmond, Cranston, Charlestown, Hopkinton, Johnston, Foster, and Burrillville to elect two, and Jamestown, Middletown, and Barrington to elect one.

3. In the city of Providence there shall be six representative districts, which shall be the six wards of said city. And the electors resident in said districts, for the term of three months next preceding the election at which they offer to vote, shall be entitled to elect two representatives for each district.

4. The general assembly, in case of great inequality in the population of the wards of the city of Providence, may cause the boundaries of the six representative districts therein to be so altered, as to include in each district, as nearly as may be, an equal number of inhabitants.

5. The house of representatives shall have authority to elect their own speaker, clerks, and other officers. The oath of office shall be administered to the speaker by the secretary of State, or in his absence by the attorney general.

6. Whenever the seat of a member of the house of representatives shall be vacated by death, resignation, or otherwise, the vacancy may be filled by a new election.

Article sixth.—Of the senate.

1. The State shall be divided into twelve senatorial districts, and each district shall be entitled to one senator, who shall be annually chosen by the electors in his district.

2. The first, second, and third, representative districts in the city of Providence, shall constitute the first senatorial district; the fourth, fifth, and sixth, representative districts in said city, the second district; the town of Smithfield, the third district; the towns of North Providence and Cumberland, the fourth district; the towns of Scituate, Gloucester, Burrillville, and Johnston, the fifth district; the towns of Warwick and Cranston, the sixth district; the towns of East Greenwich, West Greenwich,

Coventry, and Foster, the seventh district; the towns of Newport, Jamestown, and New Shoreham, the eighth district; the towns of Portsmouth, Middleton, Tiverton, and Little Compton, the ninth district; the towns of North Kingston and South Kingston, the tenth district; the towns of Westerly, Charlestown, Exeter, Richmond, and Hopkinton, the eleventh district; the towns of Bristol, Warren, and Barrington, the twelfth district.

3. The lieutenant governor shall be, by virtue of his office, president of the senate, and shall have a right, in case of an equal division, to vote in the same, and also to vote in joint committee of the two houses.

4. When the government shall be administered by the lieutenant governor, or he shall be unable to attend as president of the senate, the senate shall elect one of their own members president of the same.

5. Vacancies in the senate, occasioned by death, resignation, or otherwise, may be filled by a new election.

6. The secretary of State shall be, by virtue of this office, secretary of the senate.

Article seventh.—Of impeachments.

1. The house of representatives shall have the sole power of impeachment.

2. All impeachments shall be tried by the senate; and, when sitting for that purpose, they shall be on oath or affirmation. No person shall be convicted, except by vote of two-thirds of the members elected. When the governor is impeached, the chief justice of the Supreme Court shall preside, with a casting vote on all preliminary questions.

3. The governor, and all other executive and judicial officers, shall be liable to impeachment; but judgment in such cases shall not extend further than removal from office. The party convicted shall, nevertheless, be liable to indictment, trial, and punishment, according to law.

Article eighth.—Of the executive department.

1. The chief executive power of this State shall be vested in a governor, who shall be chosen by the electors, and shall hold his office for one year, and until his successor be duly qualified.

2. No person holding any office or place under the United States, this State, any other of the United States, or any foreign power, shall exercise the office of governor.

3. He shall take care that the laws are faithfully executed.

4. He shall be commander-in-chief of the military and naval forces of the State, except when called into the actual service of the United States; but he shall not march nor convey any of the citizens out of the State without their consent, or that of the general assembly, unless it shall become necessary, in order to march or transport them from one part of the State to another for the defence thereof.

5. He shall appoint all civil and military officers whose appointments is not by this constitution, or shall not by law be otherwise provided for.

6. He shall, from time to time, inform the general assembly of the

condition of the State, and recommend to their consideration such measures as he may deem expedient.

7. He may require from any military officer, or any officer in the executive department, information upon any subject relating to the duties of his office.

8. He shall have power to remit forfeitures and penalties, and to grant reprieves, commutation of punishments, and pardons, after conviction; except in cases of impeachment.

9. The governor shall, at stated times, receive for his services a compensation, which shall not be increased nor diminished during his continuance in office.

10. There shall be elected, in the same manner as is provided for the election of governor, a lieutenant governor, who shall continue in office for the same term of time. Whenever the office of governor shall become vacant by death, resignation, removal from office, or otherwise, the lieutenant governor shall exercise the office of governor until another governor shall be duly qualified.

11. Whenever the offices of governor and lieutenant governor shall both become vacant by death, resignation, removal from office, or otherwise, the president of the senate shall exercise the office of governor until a governor be duly qualified; and should such vacancies occur during a recess of the general assembly, and there be no president of the senate, the secretary of State shall, by proclamation, convene the senate, that a president may be chosen to exercise the office of governor.

12. Whenever the lieutenant governor or president of the senate shall exercise the office of governor, he shall receive the compensation of governor only, and his duties as president of the senate shall cease while he shall continue to act as governor; and the senate shall fill the vacancy by an election from their own body.

13. In case of a disagreement between the two houses of the general assembly respecting the time or place of adjournment, the person exercising the office of governor may adjourn them to such time or place as he shall think proper; provided that the time of adjournment shall not be extended beyond the first day of the next stated session.

14. The person exercising the office of governor may, in cases of special necessity, convene the general assembly at any town or city in this State, at any other time than herein before provided. And in case of danger from the prevalence of epidemics or contagious diseases, or from other circumstances, in the place in which the general assembly are next to meet, he may, by proclamation, convene the assembly at any other place within the State.

15. A secretary of State, a general treasurer, and an attorney general, shall also be chosen annually, in the same manner, and for the same time, as is herein provided respecting the governor. The duties of these officers shall be the same as are now, or may hereafter be, prescribed by law. Should there be a failure to choose either of them, or should a vacancy occur in either of their offices, the general assembly shall fill the place by an election in joint committee.

16. The electors in each county shall, at the annual election, vote for an inhabitant of the county to be sheriff of said county for one year, and until a successor be duly qualified. In case no person shall have a majority of the electoral votes of his county for sheriff, the general assembly, in joint committee, shall elect a sheriff from the two candidates who shall have the greatest number of votes in such county.

17. All commissions shall be in the name of the State of Rhode Island and Providence Plantations, sealed with the seal of the State, and attested by the secretary.

Article ninth.—General provisions.

1. This constitution shall be the supreme law of the State, and all laws contrary to, or inconsistent with, the same, which may be passed by the general assembly, shall be null and void.

2. The general assembly shall pass all necessary laws for carrying this constitution into effect.

3. The judges of all the courts, and all other officers, both civil and military, shall be bound, by oath or affirmation, to the due observance of this constitution, and of the constitution of the United States.

4. No jurisdiction shall hereafter be entertained by the general assembly in cases of insolvency, divorce, sale of real estate of minors, or appeal from judicial decisions, or in any other matters appertaining to the jurisdiction of judges and courts of law. But the general assembly shall confer upon the courts of the State all necessary powers for affording relief in the cases herein named; and the general assembly shall exercise all other jurisdiction and authority which they have heretofore entertained, and which is not prohibited by, or repugnant to, this constitution.

5. The general assembly shall, from time to time, cause estimates to be made of the rateable property of the State, in order to the equitable proportionment of State taxes.

6. Whenever a direct tax is laid by the State, one-sixth part thereof shall be assessed on the polls of the qualified electors; provided, that the tax on a poll shall never exceed the sum of fifty cents; and that all persons who actually perform military duty, or duty in the fire department, shall be exempted from said poll tax.

7. The general assembly shall have no power hereafter to incur State debts to an amount exceeding the sum of fifty thousand dollars, except in time of war, or in case of invasion, without the express consent of the people. Every proposition for such increase shall be submitted to the electors, at the next annual election, or on some day to be set apart for that purpose, and shall not be farther entertained by the general assembly, unless it receive the votes of a majority of all the persons voting. This section shall not be construed to refer to any money that now is, or hereafter may be, deposited with this State by the General Government.

8. The assent of two-thirds of the members elected to each house of the general assembly shall be requisite to every bill appropriating the public moneys or property, for local or private purposes, or for creating, continuing, altering or renewing any body politic or corporate, banking corporations excepted.

9. Hereafter, when any bill creating, continuing, altering or renewing any banking corporation, authorized to issue its promissory notes for circulation, shall pass the two houses of the general assembly, instead of being sent to the governor, it shall be referred to the electors for their consideration at the next annual election, or on some day to be set apart for that purpose, with printed tickets, containing the question—Shall said bill (with a brief description thereof) be approved or not? and if a majority of the electors voting shall vote to approve said bill, it shall become a law; otherwise, not.

10. All grants of incorporation shall be subject to the future acts of the general assembly, in amendment or repeal thereof, or in any wise affecting the same; and this provision shall be inserted in all acts of incorporation hereafter granted.

11. The general assembly shall exercise, as heretofore, a visitorial power over corporations. Three bank commissioners shall be chosen at the June session for one year, to carry out the powers of the general assembly in this respect; and commissioners for the visitation of other corporations, as the general assembly may deem expedient, shall be chosen at the June session for the same term of office.

12. No city council, or other government in any city, shall have power to vote any tax upon the inhabitants thereof, excepting the amount necessary to meet the ordinary public expenses in the same, without first submitting the question of an additional tax or taxes to the electors of said city, and a majority of all who vote shall determine the question. But no elector shall be entitled to vote, in any city, upon any question of taxation thus submitted, unless he shall be qualified, by the possession, in his own right, of rateable property to the amount of one hundred and fifty dollars, and shall have been assessed thereon to pay a city tax, and shall have paid the same, as provided in section fourth, of article II. Nothing in that article shall be so construed as to prevent any elector from voting for town officers, and, in the city of Providence, and other cities, for mayor, aldermen, and members of the common council.

13. The general assembly shall not pass any law, nor cause any act or thing to be done, in any way to disturb any of the owners or occupants of land in any territory now under the jurisdiction of any other State or States, the jurisdiction whereof may be ceded to, or decreed to belong to, this State; and the inhabitants of such territory shall continue in the full, quiet, and undisturbed enjoyment of their titles to the same, without interference, in any way, on the part of this State.

Article tenth—Of elections.

1. The election of the governor, lieutenant governor, secretary of State, general treasurer, attorney general, and also of senators and representatives to the general assembly, and of sheriffs of the counties, shall be held on the third Wednesday of April annually.

2. The names of the persons voted for as governor, lieutenant governor, secretary of State, general treasurer, attorney general, and sheriff of the respective counties, shall be put upon one ticket, and the tickets shall

be deposited by the electors in a box by themselves. The names of the persons voted for as senators and as representatives shall be put upon separate tickets, and the tickets shall be deposited in separate boxes. The polls for all the officers named in this section shall be opened at the same time.

3. All the votes given for governor, lieutenant governor, secretary of State, general treasurer, attorney general, sheriffs, and also for senators, shall remain in the ballot-boxes till the polls be closed. These votes shall then, in open town and ward meetings, and in the presence of at least ten qualified voters, be taken out and sealed up in separate envelopes by the moderators and town clerks, and by the wardens and ward clerks, who shall certify the same, and forthwith deliver or send them to the secretary of State, whose duty it shall be securely to keep the same, and to deliver the votes for State officers and sheriffs to the speaker of the house of representatives, after the house shall be organized at the June session of the general assembly. The votes last named shall, without delay, be opened, counted, and declared in such manner as the house of representatives shall direct, and the oath of office shall be administered to the persons who shall be declared to be elected by the speaker of the house of representatives, and in the presence of the house; provided that the sheriffs may take their engagement before a senator, judge, or justice of the peace. The votes for senators shall be counted by the governor and secretary of State, within seven days from the day of election; and the governor shall give certificates to the senators who are elected.

4. The boxes containing the votes for representatives to the general assembly in the several towns, shall not be opened till the polls for representatives are declared to be closed. The votes shall then be counted by the moderator and clerk, who shall announce the result, and give certificates to the persons elected. If there be no election, or not an election of the whole number of representatives to which the town is entitled, the polls for representatives may be re-opened, and the like proceedings shall be had until an election shall take place; provided, however, that an adjournment of the election may be made to a time not exceeding seven days from the first meeting.

5. In the city of Providence and other cities, the polls for representatives shall be kept open during the whole time of voting for the day, and the votes in the several wards shall be sealed up at the close of the meeting by the wardens and ward clerks, in the presence of at least ten qualified electors, and delivered to the city clerks. The mayor and aldermen of said city or cities shall proceed to count said votes within two days from the day of election; and if no election, or an election of only a portion of the representatives, whom the representative districts are entitled to elect, shall have taken place, the mayor and aldermen shall order a new election to be held not more than ten days from the day of the first election, and so on, till the election of Representatives shall be completed. Certificates of election shall be furnished to the person chosen by the city clerks.

6. If there be no choice of a senator or senators at the annual elec-

tion, the governor shall issue his warrant to the town and ward clerks of the several towns and cities in the senatorial district or districts that may have failed to elect, requiring them to open town or ward meetings for another election, on a day not more than fifteen days beyond the time of counting the votes for senators. If, on a second trial, there shall be no choice of a senator or senators, the governor shall certify the result to the speaker of the house of representatives, and the house of representatives, and as many senators as shall have been chosen, shall forthwith elect, in joint committee, a senator or senators from the two candidates who may receive the highest number of votes in each district.

7. If there be no choice of governor at the annual election, the speaker of the house of representatives shall issue his warrant to the clerks of the several towns and cities, requiring them to notify town and ward meetings for another election on a day, to be named by him, not more than thirty, nor less than twenty, days beyond the time of receiving the report of the committee of the house of representatives, who shall count the votes for governor. If, on this second trial there, shall be no choice of governor, the two houses of the general assembly shall, at their next session, in joint committee, elect a governor from the two candidates having the highest number of votes, to hold his office for the remainder of the political year, and until his successor be duly qualified.

8. If there be no choice of governor and lieutenant governor at the annual election, the same proceedings for a choice of a lieutenant governor shall be had, as are directed in the preceding section; provided that the second trial for the election of governor and lieutenant governor shall be on the same day; and also, provided, that if the governor shall be chosen at the annual election, and the lieutenant governor shall not be chosen, then the last named officer shall be elected in joint committee of the two houses from the two candidates having the highest number of votes, without a further appeal to the electors. The lieutenant governor elected, as is provided in this section, shall hold his office, as is provided in the preceding section respecting the governor.

9. All town, city, and ward meetings for the choice of representatives, justices of the peace, sheriffs, senators, State officers, representatives to congress, and electors of president and vice president shall be notified by the town, city, and ward clerks at least seven days before the same are held.

10. In all elections held by the people under this constitution, a majority of all the electors voting shall be necessary to the choice of the person or persons voted for.

11. The oath or affirmation to be taken by all the officers named in this article shall be the following: You being elected to the place of governor, lieutenant governor, secretary of State, general treasurer, attorney general, or to the places of senators or representatives, or to the office of sheriff, or justice of the peace, do solemnly swear, or severally solemnly swear, or affirm, that you will be true and faithful to the State

of Rhode Island and Providence Plantations, and that you will support the constitution thereof, that you will support the constitution of the United States, and that you will faithfully and impartially discharge the duties of your aforesaid office to the best of your abilities and understanding, so help you God; or this affirmation you make and give upon the peril of the penalty of perjury.

Article eleventh.—Of the judiciary.

1. The judicial power of this State shall be vested in one supreme court, and in such other courts, inferior to the supreme court, as the legislature may, from time to time, ordain and establish; and the jurisdiction of the supreme and of all other courts may, from time to time, be regulated by the general assembly.

2. Chancery powers may be conferred on the supreme court; but no other court exercising chancery powers shall be established in this State, except as is now provided by law.

3. The justices of the supreme court shall be elected in joint committee of the two houses, to hold their offices for one year, and until their places be declared vacant by a resolution to that effect, which shall be voted for by a majority of all the members elected to the house in which it may originate, and be concurred in by the same vote of the other house, without revision by the governor. Such resolution shall not be entertained at any other than the annual session for the election of public officers; and in default of the passage thereof at the said session, the judge or judges shall hold his or their place or places for another year. But a judge of any court shall be removable from office, if, upon impeachment, he shall be found guilty of any official misdemeanor.

4. In case of vacancy by the death, resignation, refusal, or inability to serve, or removal from the State of a judge of any court, his place may be filled by the joint committee, until the next annual election, when, if elected, he shall hold his office as herein provided.

5. The justices of the supreme court shall receive a compensation, which shall not be diminished during their continuance in office.

6. The judges of the courts, inferior to the supreme court, shall be annually elected in joint committee of the two houses, except as herein provided.

7. There shall be annually elected by each town, and by the several wards in the city of Providence, a sufficient number of justices of the peace or wardens resident therein, with such jurisdiction as the general assembly may prescribe; and said justices or wardens (except in the towns of New Shoreham and Jamestown) shall be commissioned by the governor.

8. The general assembly may provide, that justices of the peace, who are not re-elected, may hold their offices for a time not exceeding ten days, beyond the day of the annual election of these officers.

9. The courts of probate in this State, except the supreme court, shall remain as at present established by law, until the general assembly shall otherwise prescribe.

Article twelfth.—Of education.

1. All moneys which now are, or may hereafter be, appropriated by the authority of the State, to public education, shall be securely invested, and remain a perpetual fund for the maintenance of free schools in this State, and the general assembly are prohibited from diverting said moneys or fund from this use, and from borrowing, appropriating, or using the same, or any part thereof, for any other purpose, or under any pretence whatsoever. But the income derived from said moneys or fund shall be annually paid over by the general treasurer to the town and cities of the State, for the support of said schools, in equitable proportions; provided, however, that a portion of said income may, in the discretion of the general assembly, be added to the principal of said fund.

2. The several towns and cities shall faithfully devote their portions of said annual distribution to the support of free schools, and in default thereof, shall forfeit their shares of the same to the increase of the fund.

3. All charitable donations for the support of free schools and other purposes of public education, shall be received by the general assembly, and invested and applied agreeably to the terms prescribed by the donors: provided, the same be not inconsistent with the constitution, or with sound policy; in which case, the donation shall not be received.

Article thirteenth.—Amendments.

The general assembly may propose amendments to this constitution by the vote of a majority of all the members elected to each house. Such propositions shall be published in the newspapers of the State, and printed copies of said propositions shall be sent by the secretary of State, with the names of all the members who shall have voted thereon, with the yeas and nays, to all the town and city clerks in the State; and the said propositions shall be, by said clerks, inserted in the notices by them issued, forewarning the next annual town and ward meetings in April; and the town and ward clerks shall read said proposition to the electors when thus assembled, with the names of all the representatives and senators who shall have voted thereon, with the yeas and nays, before the election of representatives and senators shall be had. If a majority of all the members elected at said annual meetings, present in each house, shall approve any proposition thus made, the same shall be published as before provided, and then sent to the electors in the mode provided in the act of approval; and if then approved by a majority of the electors, who shall vote in town and ward meetings, to be especially convened for that purpose, it shall become a part of the constitution of the State.

Article fourteenth.—Of the adoption of the Constitution.

1. This constitution shall be submitted to the people for their adoption or rejection, on Monday, the 27th day of December next, and on the two succeeding days; and all persons voting, are requested to deposit in the ballot boxes printed or written tickets, in the following form: I am an American citizen of the age of twenty-one years, and have my per-

manent residence or home in this State. I am (or not) qualified to vote under the existing laws of this State. I vote for (or against) the constitution formed by the convention of the people assembled at Providence, and which was proposed to the people by said convention on the 18th day of November, 1841.

2. Every voter is requested to write his name on the face of his ticket, and every person entitled to vote as aforesaid, who from sickness or other causes may be unable to attend and vote in the town or ward meetings assembled for voting for said constitution on the days aforesaid, is requested to write his name upon a ticket, and to obtain a signature upon the back of the same of a person who had given in his vote as a witness thereto. And the moderator or clerk of any town or ward meeting, convened for the purpose aforesaid, shall receive such vote on either of the three days next succeeding the three days before named for voting on said constitution.

3. The citizens in the several towns in this State, and of the several wards in the city of Providence, are requested to hold town and ward meetings on the days appointed, and for the purpose aforesaid; and also to choose in each town and ward a moderator and clerk to conduct said meetings, and receive the votes.

4. The moderators and clerks are required to receive and carefully to keep the votes of all persons qualified to vote as aforesaid, and to make registers of all the persons voting, which, together with the tickets given in by the voters, shall be sealed up and returned by said moderators and clerks, with certificates signed and sealed by them, to the clerks of the convention of the people, to be by them safely deposited and kept, and laid before said convention, to be counted and declared at their next adjourned meeting, on the 12th day of January, 1842.

5. This constitution, except so much thereof as relates to the election of the officers named in the sixth section of this article, shall, if adopted, go into operation on the first Tuesday of May, in the year one thousand eight hundred and forty-two.

6. So much of the constitution as relates to the election of officers named in this section, shall go into operation on the Monday, before the third Wednesday of April next preceding. The first election under this constitution, of governor, lieutenant governor, secretary of State, general treasurer and attorney general, of senators and representatives, of sheriffs for the several counties, and of justices of the peace for the several towns and the wards of the city of Providence, shall take place on the Monday aforesaid.

7. The electors of the several towns and wards are authorized to assemble on the day aforesaid, without being notified, as is provided in section ninth of article X, and without the registration required in section seventh, of article II, and to chose moderators and clerks, and proceed in the election of the officers named in the preceding section.

8. The votes given in at the first election for representatives to the general assembly, and for justices of the peace, shall be counted by the moderators and clerks of the towns and wards chosen as aforesaid, and

certificates of election shall be furnished by them to the representatives and justices of the peace elected.

9. Said moderators and clerks shall seal up, certify, and transmit to the house of representatives all the votes that may be given in at said first election for governor and State officers, and for senators and sheriffs, and the votes shall be counted, as the house of representatives may direct.

10. The speaker of the house of representatives shall, at the first session of the same, qualify himself to administer the oath of office to the members of the house, and to other officers, by taking and subscribing the same oath in the presence of the house.

11. The first session of the general assembly, shall be held in the city of Providence, on the first Tuesday of May, in the year one thousand eight hundred and forty-two, with such adjournments as may be necessary, but all other sessions shall be held as is provided in article IV of this constitution.

12. If any of the representatives, whom the towns or districts are entitled to chose at the first annual election aforesaid, shall not be then elected, or if their places shall become vacant during the year, the same proceedings may be had to complete the election, or to supply vacancies as are directed concerning elections, in the preceding sections of this article.

13. If there shall be no election of governor, or lieutenant governor, or of both of these officers, or of a senator or senators, at the first annual election, the house of representatives and as many senators as are chosen, shall forthwith elect in joint committee a governor, or lieutenant governor, or both, or a senator or senators, to hold their offices for the remainder of the political year, and in the case of the two officers first named, until their successors shall be duly qualified.

14. If the number of the justices of the peace determined by the several towns and wards on the day of the first annual election, shall not then be chosen, or if vacancies shall occur, the same proceedings shall be had as are provided for in this article, in the case of a non-election of representatives and senators, or of vacancies in their offices. The justices of the peace thus elected shall hold office for the remainder of the political year, or until the second annual election of justices of the peace, to be held on such day as may be prescribed by the general assembly.

15. The justices of the peace elected in pursuance of the provisions of this article, may be engaged by the persons acting as moderators of the town and ward meetings, as herein provided, and said justices after obtaining their certificates of election, may discharge the duties of their office, for a time not exceeding twenty days, without a commission from the governor.

16. Nothing contained in this article inconsistent with any of the provisions of other articles of the constitution shall continue in force for a longer period than the first political year under the same.

17. The present government shall exercise all the powers with which

it is now clothed, until the said first Tuesday of May, one thousand eight hundred and forty-two, and until their successors under this constitution shall be duly elected and qualified.

18. All civil, judicial, and military officers now elected, or who shall hereafter be elected by the general assembly, or other competent authority, before the said first Tuesday of May, shall hold their offices, and may exercise their powers, until that time.

19. All laws and statutes, public and private, now in force, and not repugnant to this constitution, shall continue in force until they expire by their own limitation, or are repealed by the general assembly. All contracts, judgments, actions, and rights of action, shall be as valid as if this constitution had not been made. All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the State as if this constitution had not been made.

20. The supreme court established by this constitution, shall have the same jurisdiction as the supreme judicial court at present established, and shall have jurisdiction of all causes which may be appealed to, or pending in the same; and shall be held at the same time and places in each county as the present supreme judicial court, until the general assembly shall otherwise prescribe.

21. The citizens of the town of New Shoreham, shall be hereafter exempted from military duty, and the duty as serving as jurors in the courts of this State. The citizens of the town of Jamestown shall be forever hereafter exempted from military field duty.

22. The general assembly shall, at their first session after the adoption of this constitution, propose to the electors the question, whether the word "white" in the first line of the first section of article II of the constitution shall be stricken out. The question shall be voted upon at the succeeding annual election: and if a majority of the electors voting, shall vote to strike out the word aforesaid, it shall be stricken from the constitution; otherwise, not. If the word aforesaid shall be stricken out, section 3d, of article II, shall cease to be a part of the constitution.

23. The president, vice president, and secretaries, shall certify and sign this constitution, and cause the same to be published

Done in convention at Providence, on the 18th day of November, in the year one thousand eight hundred and forty-one, and of American independence the sixty-sixth.

JOSEPH JOSLIN,
President of the Convention.

WAGER WEEDEN,
SAMUEL H. WALES,
Vice Presidents.

Attest:—WILLIAM H. SMITH,
JOHN J. HARRIS, *Secretaries.*

Schedule L a.

Copy from the record of the house of representatives, at their January session, 1842.

Under date of Tuesday, January 11th, the following entry appears:

"A bill to alter the day of annual election, to dissolve the constitutional convention, and to adjourn the general assembly in May, *sine die*, was presented by Mr. Atwell, and read the first time.

February 5th, indefinitely postponed.

Under date of January 14th. Communication from the governor enclosing papers from the 'people's constitution.'

February 5th, indefinitely postponed.

Under date of January 20th. Mr. Atwell called up his act presented at the beginning of the session. He moved its reference, together with all the papers communicated by the governor, to a committee of three from each county, to examine the whole subject, and investigate the elections and their returns, the results of which had been communicated to the house, in order to learn if a majority of the freemen had voted. The debate lasted the whole morning.

P. M. The consideration of Mr. Atwell's motion next came up. These were discussed by Mr. Cranston, Mr. Spencer, Mr. Whipple, Mr. Robinson, Mr. Burges, Mr. Randolph, and Mr. King, until six o'clock, when the house adjourned.

January 21st. Mr. Atwell called up the consideration of his motion, which was discussed by Mr. Clarke, Mr. Dixon, Mr. Bosworth, and Mr. Howe, till after 12 o'clock, when the house adjourned.

P. M. Mr. Atwell's motion was then taken up, and debated by Mr. Jackson and Mr. Atwell, until six o'clock, when the house adjourned.

January 22d. Mr. Atwell's motion come up for consideration, and was debated by Messrs. Atwell, Spencer, Jackson, and Randolph, until past 12 o'clock, when the house was called upon its passage, and it was rejected as follows:

AYES.—Atwell, W. S. Burgess, Brayton, J. H. Clarke, Gavitt, Keech, Rose, W. Sprague, A. Sprague, Slocum, Thurston—11.

NOES.—The Speaker, Atwood, Arnold, Bosworth, Babcock, Browning, Baker, A. Brown, C. Brown, Barton, Barber, E. Burgess, jun., Cranston, J. Clarke, D. Clarke, Chase, A. Church, jun., N. Church, Cook, Cole, Dixon, Dawley, Durfee, Drowne, Greene, Hoxie, John Hazard, Jer. Hazard, Howe, King, Kenyon, Lawton, Low, J. Manchester, John Manchester, Matheweson, Maury, Newton, Perry, Pearce, Randolph, Reynolds, Robinson, Randall, Spencer, Sands, Sherman, Smith, Tifft, Taggart, Watson, Westcott, Whipple, Weaver, Wilkinson, Wood, Walling—57.

(COPY)—*Schedule L b.*

Whereas the people of this State have, by a large majority of the resident citizens of the same, of the age of twenty-one years, ratified and adopted the constitution of government for this State, which was submitted to them by their convention, sitting at Providence, on the 18th day of November last; and whereas, the sovereign power of the State is vested in the people thereof, and their will is the paramount law of the State, and when made known should be implicitly obeyed by the representatives and servants of the people; therefore,

Be it enacted by the general assembly, as follows:

1. So much of the election law of this State as provides that an election of State officers and representatives shall be had on the third Wednesday of April, is hereby repealed, in order that said elections may take place according to the terms and provisions of the constitution of the people aforesaid.

2. The resolutions passed at the January and June sessions of the last year, for the call of a convention of the qualified freeholders of this State, to form a constitution, are hereby repealed; excepting so much thereof as provides for the pay of the delegates for their past attendance. The clerks of said convention are requested to issue certificates to the members for said attendance; and the president of the same is requested to certify all the bills of expenses of said convention, to an amount not exceeding the sum appropriated by the assembly for the use of said convention.

The foregoing is endorsed, as follows: "An act to change the day of annual election, dissolve the constitutional convention, and adjourn *sine die*."

1 H. R. January 11, 1842. Read first time before the Senate was organized.

H. R. January 14, 1842. Read first time.

February 5, 1842. Indefinitely postponed.

J. S. P., *Clerk.*

A true copy from the records and files of the house of representatives of the State of Rhode Island.

THOMAS A. JENCKES, *Clerk.*

February 15th, 1844.

Schedule L c.

Whereas, by the return of the votes upon the CONSTITUTION proposed to the citizens of this State by this convention, on the *eighteenth* day of November last, (Nov. 18, 1841,) it satisfactorily appears that the citizens of this State, in their original and sovereign capacity, have ratified and adopted said constitution by a large majority, and the will of the people, thus decisively made known, ought to be implicitly obeyed and faithfully executed.

We do therefore RESOLVE and DECLARE, that said CONSTITUTION rightfully ought to be, and is, the paramount law and CONSTITUTION of the STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.

And we do further resolve and declare, for ourselves, and in behalf of the people whom we represent, that we will establish said constitution, and sustain and defend the same by all necessary means.

Resolved, That the officers of this convention make proclamation of the return of the votes upon the constitution, and that the same has been adopted and has become the constitution of this State, and that they cause said proclamation to be published in the newspapers of the same.

Resolved, That a certified copy of the report of the committee, appointed to count the votes upon the constitution, and of these resolutions,

and of the constitution, be sent to his excellency the governor, with a request that he communicate the same to the two houses of the general assembly.

The undersigned, who were appointed, on the 12th day of January, 1842, a committee of the people's convention, to examine and count the votes upon the constitution proposed to the people by said convention on the 18th day of November last, which said votes were given in on the 27th day of December last, and on the five subsequent days, report, that they have attended to the duty of their appointment, and they present to the convention the following statement of the result.

County of Providence.	Freemen.	Not freemen.	Total.
Providence.—First ward - -	162	362	524
Second ward - -	90	281	371
Third ward - -	165	472	637
Fourth ward - -	142	357	499
Fifth ward - -	245	519	764
Sixth ward - -	255	506	761
	1059	2497	3556
Smithfield - - - -	382	956	1338
Scituate - - - -	208	316	524
Glocester - - - -	195	207	402
Cumberland - - - -	294	598	892
Cranston - - - -	167	237	404
Johnston - - - -	141	206	347
North Providence* - - -	214	469	683
Foster - - - -	124	114	238
Burrillville - - - -	149	134	283
	2933	5734	8667
Newport county.			
Newport - - - -	319	883	1202
Portsmouth - - - -	71	55	126
New Shoreham† - - -	102	30	132
Jamestown - - - -	18	13	31
Middletown - - - -	8	22	30
Tiverton - - - -	102	172	274
Little Compton - - -	19	25	43
	639	1200	1839

*The votes of five freemen and of three non-freemen, given in favor of the constitution, were rejected for informality of the returns.

†Twenty-six additional votes for the constitution were given by twenty-two freemen and four non-freemen, of which no regular return was received.

STATEMENT—Continued.

Washington county.	Freemen.	Not freemen.	Total.
Westerly	107	144	251
North Kingston	84	169	253
South Kingston	138	137	275
Charlestown	64	36	100
Exeter	52	82	134
Richmond	44	88	132
Hopkinton	83	79	162
	572	735	1307
Kent county.			
Warwick	309	591	900
East Greenwich	50	85	135
West Greenwich	17	45	62
Coventry	157	249	406
	533	970	1503
Bristol county.			
	152	214	366
Bristol	103	107	210
Warren	28	24	52
Barrington			
	283	345	628

Recapitulation.

Providence co.	2933	5734	8667
Newport "	639	1200	1839
Washington "	572	735	1307
Kent "	533	970	1503
Bristol "	283	345	628
	4960	8984	13944

The whole number of males in this State, over the age of twenty-one years, as nearly as can be ascertained by the census of the United States for the year 1840, is 26,142.

Deducting, at a moderate computation, 3,000 persons who are not citizens of the United States, over the age of twenty-one years, and permanent residents, or who are excluded by being under guardianship, in-

sane, or convict, and the remainder is 23,142, of whom a majority is 11,572.

The constitution has received 873 votes more than one-half of all the adult males in the State, and 2,372 more than half of all those qualified to vote for said constitution by citizenship, age, and residence as aforesaid, and an actual majority of 4,746.

Deduct from 23,142, the whole number who voted for the constitution, viz: 13,944, and the remainder is 9,198, of whom 9,146 did not vote, and 52 voted against the constitution, viz: in Smithfied 2, North Providence 11, Tiverton 3, Little Compton 17, Westerly 1, South Kingston 10, Warwick 1, East Greenwich 6, and Warren 1.

Of the persons who voted, 4,960 are qualified voters under the existing laws of the State. The greatest number of votes ever polled by said voters was 8,622, at the Presidential election in November, 1840, of this number a majority of 1,298 have voted for the constitution—making also, as your committee believe, a majority of all the freemen of the State.

The committee have found all the returns of votes from the several towns and wards, to have been regularly made and accompanied with lists of all the persons voting, which lists enumerate the qualified voters and those who are not. Every voter has signed his name upon his ticket, and the committee believe, that both the voting and the returns have been as regular and accurate as at any election ever held in this State.

A considerable number of votes were returned as having been given by freeholders, who had not yet been admitted freemen; but they were of course counted with those of the non-freemen.

The committee report to the convention, as the result of their examination and count of the votes, that the constitution proposed to the people by said convention, on the 18th day of November last, has been adopted by a large majority of the citizens over the age of twenty-one years, having their permanent residence in the State.

Providence, January 13, 1842.

William James, Chairman,	Welcome B. Sayles,
John R. Waterman,	Sylvester Himes,
Dutee J. Pearce,	Israel Wilson,
David Daniels,	Jonathan Remington,
Oliver Chace, jr.,	Christ'r Smith,
Robert R. Carr,	Elisha G. Smith,
Ariel Ballou,	Samuel Luther,
Thomas W. Dorr,	Erastmus D. Campbell,
Samuel T. Hopkins,	Nathan Bardin,
Alfred Read,	Joshua B. Rathburn,
Wm. C. Barker,	Nathan A. Brown,
Abner Haskell,	William H. Smith, }
Alexander Allen,	John S. Harris, }
Willard Hazard,	Secretaries.

N a.

The constitution of the State of Rhode Island and Providence Plantations was proclaimed January 13, 1842.

State of Rhode Island and Providence Plantations:

On the third day of May, 1842, (being the first Tuesday of said May,) the general officers and general assembly of said State elected under and by virtue of the constitution of said State, met in the city of Providence and organised the government.

Thomas W. Dorr, governor of said State elect, was duly sworn, by speaker of the house of representatives, in the presence of both houses.

Amasa Eddy, jun'r, lieutenant governor of said State elect, was duly sworn *was duly sworn* by the speaker, in presence of both houses.

William H. Smith, secretary of State elect, was duly sworn by the speaker, in presence of both houses.

Jonah Titus, attorney general of the State elect, was duly sworn, by the speaker, in presence of both houses.

First Session, May 3d, 1842.

In Senate, May 3d, 1842. On this third day of May, 1842, (being the first Tuesday of said May,) the Senate of said State elected, under and by virtue of the authority of the constitution of said State, met in the city of Providence.

Amasa Eddy, jun'r, president. Eli Brown, senator elect of the 1st senatorial district, is duly sworn.

Hezekiah Willard, senator elect from 2d senatorial district, is duly sworn.

John Paine, senator elect of the 3d senatorial district, is duly sworn.

Abner Huskell, senator elect of the 4th senatorial district, is duly sworn.

Soloman Smith, senator elect of the 5th senatorial district, is duly sworn.

Benjamin Nichols, senator elect of the 6th senatorial district, is duly sworn.

Benjamin Chace, senator elect of the 8th senatorial district, is duly sworn.

William James, senator elect of the 11th senatorial district, is duly sworn.

Christopher Smith, senator elect of the 12th senatorial district, is duly sworn.

Eli Brown is appointed of a committee, on the part of the Senate, to wait on the governor elect, and inform him that the two houses are organized, and ready to hear any communication he may think proper to make.

The governor delivers a message to both houses in person.

May 3d, 1842. No. 1. In senate, May, 3d, 1842. Resolution "from the house, that the governor be requested to inform the President of the United States, &c., that the government of this State has

been duly elected and organized under the constitution of this State," were read, concurred in, and approved by the governor.

No. 2. A resolution from the house requesting the governor to issue his proclamation to the people of this State, that the government under the constitution thereof has been duly organised, and calling upon all persons, civil and military, to conform themselves to said constitution, and to the laws enacted under the same, and to all other jurisdiction and authority duly exercised by virtue of the same, was read, concurred in, and approved by the governor.

No. 3. A bill from the house repealing the act entitled "An act in relation to offences against the sovereign power of the State, passed at the session of the general assembly held by adjournment, in March, 1842, was read, concurred in, and approved by the governor.

The Senate adjourned to meet again at nine o'clock, to-morrow morning.

Wednesday, May 4th.—The senate met as adjourned.

May 4th, 1842. No. 4. "An act providing for the registration of electors, and directing the manner of voting by ballot, in town and ward meetings," was read and concurred in with an amendment, and sent to the house; returned by the house concurred in as amended, and approved by the governor.

No. 5. An act to repeal certain resolutions passed by the general assembly at their April session, 1842, is read, concurred in, and approved by the governor.

No. 6. An act to repeal an act entitled "An act to authorised the establishment of volunteer police companies in the city of Providence," passed by the general assembly at their April session, 1842, is read, concurred in, and approved by the governor.

No. 7. An act to repeal an act entitled "An act to prevent riots, routs, and tumultuous assemblies, and the evil consequences thereof," passed by the general assembly at their April session, 1842, is read, concurred in, and approved by the governor.

No. 8. An act to amend the charter of the independent company of the United Volunteers in the city of Providence, is read, concurred in, and approved by the governor.

No. 9. An act in addition to the act, entitled "An act imposing a duty upon licenced persons and others, and bodies corporate within this State, is read, concurred in, and approved by the governor.

The senate adjourned to meet at 2 o'clock in the afternoon.

May 4, 1842. The senate met at 2 o'clock in the afternoon.

No. 10. An act providing for the compensation of the members of the general assembly is read, concurred in, and approved by the governor.

No. 11. A resolution from the house appointing Perez Simmons and Nathaniel Mowry a committee to demand and receive the records, books, and papers appertaining to the office from Henry Bowen, late secretary of State, and transfer the same to his successor William H. Smith, is read, concurred in, and approved by the governor.

JOINT COMMITTEE.

The senate, being invited by the house of representatives to join the house in joint committee for the purpose of proceeding to the election of officers, join the house.

The president of the senate presides.

The election of the justices of the supreme court is postponed.

The election of the justices of the courts of common pleas for the several counties is postponed.

The election of the clerks of the supreme court for the several counties is postponed.

The election of the clerks of the courts of common pleas for the several counties is postponed.

The election of public notaries for the several counties is postponed.

May 4, 1842. The election of bank commissioners is postponed.

The election of the inspectors of the State's prison is postponed.

John Winship is elected inspector-general of beef and pork.

The elect*ond* of inspector-general of lime is postponed.

The election of inspector of scythe-stones is postponed.

The elections of all other civil officers is postponed.

MILITARY OFFICERS.

Americus V. Potter is elected major-general of the militia of the State.

The election of brigadier-general of the first brigade is postponed.

Jedediah Sprague is elected brigadier-general of 2d brigade of militia.

The election of brigadier-general of 3d brigade is postponed.

The election of brigadier-general of 4th brigade is postponed.

Jonathan M. Wheeler is elected colonel, John S. Despeau, lieutenant-colonel, Henry Baily, major—of the second regiment of militia.

May 4, 1842. Smith R. Mowry is elected colonel, Daniel M. Paine, lieutenant-colonel, and Orin Wright, major—of the sixth regiment of militia.

John H. Eddy is elected colonel, Mathewson Wilbur, lieutenant-colonel, Harley Luther, major—of the seventh regiment of militia.

George W. Sheldon is elected colonel, John M. Eddy, lieutenant-colonel, and Philip W. Hawkins, major—of the twelfth regiment of militia.

Levi S. Ballou is elected colonel, Benjamin B. Slade, lieutenant-colonel, and Albert Trask, major—of the fifteenth regiment of militia.

Joseph Lockwood is elected colonel, Nelson Barnes, lieutenant colonel, and Benoni Knight, major—of the fourteenth regiment of militia.

Henry F. Cooley is elected adjutant-general of the militia of the State.

William Aldrich is elected quarter-master-general of the militia of the State.

Arnold Sanders is elected commissary-general of the militia of the State.

James S. Lincoln is elected inspector of the division of the militia of the State.

May 4, 1842. Otis W. Bligh is elected brigade-inspector of the second brigade of militia.

George M. Kendall is elected brigade quarter-master of the second brigade of militia.

The election of the remaining officers of the militia of the State is postponed.

The joint committee rise.

Joseph Joslin, general treasurer of the State elect, being present, is duly affirmed by the speaker of the house of representatives, in presence of both houses.

No. 12. A resolution from the house, appointing Messrs. Pearce and Chace a committee, to demand, receive and transfer all the monies, bonds, securities, records, books, papers, and every other article appertaining to the office of the general treasurer of this State, from Stephen Cahoone, late treasurer, to Joseph Joslin, his successor.

No. 13. A resolution from the house, that all persons indebted to the State, make payment, and all persons having possession or charge of public property, deliver possession or charge of such property to the authorities and officers acting under the constitution and laws of this State, is read, concurred in, and approved by the governor.

No. 14. A resolution from the house, that when general assembly adMay 4, 1842. journ, they adjourn to meet on the first Monday of July next, is read and concurred in.

No. 15. A bill from the house, entitled "an act to revive the charter of the Green Artillery" is read, concurred in, and approved by the governor.

No. 16. A bill from the house, entitled "an act prescribing the manner of voting by ballot in the election of the captains and subalterns of militia companies, and for other purposes," is read, concurred in, and approved by the governor.

No. 17. A resolution from the house authorizing the governor to appoint commissioners on behalf of this State to proceed to the seat of the General Government, and make known to the President of the United States that the people of this State have adopted a written constitution, and elected officers and peaceably organized the government under that constitution, and that said government is now in full opperation, is read, concurred in, and approved by the governor.

The final vote of adjournment from the house, embracing *embracing* the continuance in office of all officers, being not re-elected, in whose places others have not been appointed, until *until* the first Monday of July, 1842, the continuance of unfinished business to that date, and a direction to the secretary to cause the acts, orders, and resolutions passed at this session to be published, with a suitable index, and distributed according to law, is read, concurred in, and approved by the governor.

N b.

Journal of the house of representatives of the State of Rhode Island and Providence Plantations, first held in the city of Providence, under the constitution of said State, on Tuesday, the third day of May, in the year 1842.

On this third day of May, 1842, (being the first Tuesday of said May,) the house of representatives of said State elected under and by virtue of the constitution of said State, met, and proceeded to its organization, by a vote that the Hon. Dutee J. Pearce, of Newport, take the chair for that purpose.

The towns and representative districts were called, and the credentials of their respective representatives, in the following order, were produced:

City of Providence—

1st representative district,		William M. Webster.
2d	"	" Samuel H. Wales,
		J. F. B. Flagg.
3d	"	" William Coleman,
		John A. Howland.
4th	"	" Perez Simmons,
		Frederick L. Beckford.
5th	"	" Franklin Cooley,
		Benjamin Arnold, jr.
6th	"	" John S. Parkes,
		William L. Thornton.
Newport	-	- Dutee J. Pearce,
		Robert R. Carr,
		Henry Oman,
		Daniel Brown.
Warwick	-	- John G. Mawney,
		Sylvanus C. Newman,
		Isbon Shearman,
		Alanson Holley.

Portsmouth	Thomas Cory, Parker Hale, 2d.
Westerly	William P. Arnold, Thomas G. Hazard.
New Shoreham	Simeon Babcock, jr., George E. S. Ely.
Smithfield	Elisha Smith, Nathaniel Mowry, Welcome B. Sales, William B. Saber.
Charlestown	Joseph Gavit, Job Taylor.
Scituate	Simeon Matthewson, David Phillips, 3d, James Yeaw.
North Providence	Stephen Whipple, Robert G. Lewis, Alfred Anthony.
Richmond	Wells Reynolds, George Niles.
North Kingstown	Sylvester Himes, Samuel C. Cottrell.
Exeter	George Sprague, Cranston Bliven.
Tiverton	Charles F. Townsend.
Bristol	William Munro, Jeremiah Bosworth.
Warren	Elisha G. Smith, Jeremiah Woodmancy.
Barrington	Nathaniel C. Smith.
Glocester	Jeremiah Sheldon, George H. Brown.
Cumberland	Nelson Jenks, Columbia Singley, Barton Whipple.
East Greenwich	Peleg R. Bennett, Sidney Tillinghast.
West Greenwich	Nathan Carr, Peter T. Brown.
Coventry	George Fairbanks, Israiel Johnson.
Foster	Obadiah Fenner, Anan Aldrich.
Burrillville	Alfred L. Comstock, Esten Angell.
Cranston	Ebenezer Barney, Albion N. Olney.
Johnston	Ephraim Winsor, Edwin C. Kelley.

Upon a call of the names returned by the credentials as aforesaid, all were present and answered, excepting Mr. Samuel C. Cottrell, of North Kingston. Sixty-six members were present, and answered.

A quorum being ascertained to be present, the chairman announced the fact; and thereupon, Welcome B. Sayles, esq., a representative from the town of Smithfield, was nominated, and duly elected SPEAKER, by a unanimous vote.

The Speaker, on taking the chair, made a short but pertinent speech, returning thanks for the honor conferred upon him; and thereupon engaged himself to the faithful discharge of his duties in the words and as required by the constitution, and in the presence of the house.

The Speaker called every member by the list as returned, and those present were engaged in the manner and form and in the words prescribed in the constitution.

John S. Harris and Levi Salisbury were unanimously elected clerks, and were duly engaged by the speaker.

On motion of Mr. Pearce it was voted, that Messrs. Cooley, S. H. Wales, Elish Smith, Lewis Simmons, George H. Brown, and Jenkes, from the county of Providence; Daniel Brown and Townsend, of the county of Newport; Himes and Arnold, of the county of Washington; Tillinghast, Hollay, and Newman, of the county of Kent; and Bosworth and E. G. Smith, of the county of Bristol; be a committee to count the votes for governor, lieutenant governor, sheriffs, and senators, and report the result.

The towns and representative districts are called to return the votes of the electors for governor, &c., when no returns were made by the following towns, Portsmouth, Hopkinton, South Kingston, Little Compton, Middletown, and Jamestown; said votes are delivered to the aforesaid committee to count and report.

The house took a recess of one hour.

At three o'clock P. M. the speaker resumed the chair, and called the house to order.

Gilbert Chace, esq., a representative from the town of Newport, appeared, produced his credentials, and was qualified by the speaker.

Mr. Simmons, on behalf of the committee appointed to count the votes, made the following report, which was received:

"HOUSE OF REPRESENTATIVES, *May 3d*, 1842.

The committee, to whom was referred the counting of the votes given at the election under the constitution, May 18, 1842, for governor, lieutenant governor, senators, secretary of State, general treasurer, and attorney general, and also the votes for sheriffs in the several counties, respectfully report:

That the whole number of votes given in for governor is 6,359; that, of this number, 6,359 were given in for Thomas Wilson Dorr, of Providence, and he is therefore elected.

That of the whole number of votes given in for lieutenant governor is 6,361; that, of this number, 6,361 were given in for Amasa Eddy, jr., of Gloucester, and he is therefore elected.

That of the whole number of votes given in for secretary of State is 6,360; that, of this number, 6,360 were given for William H. Smith, of Providence, and he is therefore elected.

That of the whole number of votes given in for attorney general is 6,360; that, of this number, 6,360 were given in for Jonah Titus, of Scituate, and he is therefore elected.

That of the whole number of votes given in for general treasurer is 6,360; that, of this number, Joseph Joslin, of Newport, received 6,360, and is therefore elected.

That in the first senatorial district the whole number of votes given in for senator is 820; that, of this number, 820 are for Eli Brown, of Providence, and he is therefore elected.

That of second senatorial district the whole number of votes given in for Senator is 1,315; that, of this number, 1,315 are for Hezekiah Willard, of Providence, and he is therefore elected.

That in the third senatorial district the whole number of votes given in for senator is 652; that, of this number, John Paine received 652, and is therefore elected.

That in the fourth senatorial district the whole number of votes given in for senator is 907; of which Abner Haskell received 907, and is therefore elected.

That in the fifth senatorial district the whole number of votes given in for senator is 856; of which Solomon Smith received 856, and is therefore elected.

That in the sixth senatorial district the whole number of votes given in for senator is 648; of which 648 are for Benjamin Nichols, and he is therefore elected.

That in the seventh senatorial district the whole number of votes given in for senator is 237; of which 237 are for John Wood, of Coventry, and he is therefore elected.

That in the eighth senatorial district the whole number of votes given in for senator is 324; of which 324 were given for Benjamin Chace, and he is therefore elected.

That in the ninth senatorial district 119 votes were given in for senator; of which 119 were for John B. Cook, and he is therefore elected.

That in the tenth senatorial district 234 were given for senator; of which Joseph Spink received 234, and is therefore elected.

That in the eleventh senatorial district 135 votes were given in for senator; of which 135 were for William James, and he is therefore elected.

That in the twelfth senatorial district 210 votes were given in for senator; of which Christopher Smith received 210, and is therefore elected.

That in Providence county the whole number of votes given in for sheriff is 4,718; that, of this number, 4,717 are for Burrington Anthony, and he is therefore elected.

That in Newport county the whole number of votes given in for sheriff is 444; all for Joshua B. Rathbone, and he is therefore elected.

That in Bristol county the whole number of votes given in for sheriff *are* 210; all for Nathan Bardine, and he is therefore elected.

That in Washington county the whole number of votes given in for sheriff is 307; all for Bradford Bliven, and he is therefore elected.

That in Kent county the whole number of votes given in for sheriff is 613; all for Hazard Carder, and he is therefore elected.

That no votes were received, in season, to be counted by the committee, from the towns of Hopkintown, Little Compton, Jamestown, New Shoreham, and Portsmouth; in the two last towns the votes were polled, but not returned to the house of representatives.

Respectfully submitted.

FRANKLIN COOLEY,
For the committee.

Voted that Messrs. Pearce, B. Arnold, jr., and Mawney, be a committee to inform the governor, lieutenant governor, secretary of State, attorney general, and general treasurer, and the senators elect, of their elections, and learn of them at what time they will be ready to take their oath of office.

Mr. Pearce, from the committee appointed to inform the general officers and the senators of their election, made report, that they had waited on the governor, lieutenant governor, secretary of State, attorney general, and senators Brown, Willard, Haskell, Paine, Smith, Nichols, Chace, James, and Smith, and that they had severally signified their acceptance of their respective offices, and would immediately be engaged by oath.

That the general treasurer was not present; and John Wood, of the seventh district, Joseph Spink, of the tenth district, and John B. Cooke, of the ninth district, were not present, and it is said had declined to serve.

The governor, Thomas W. Dorr, the lieutenant governor, Amasa Eddy, jr., William H. Smith, secretary of State, Jonah Titus, attorney general, came into the house, and severally took the oath prescribed in the constitution, administered by the speaker in presence of the house.

Eli Brown,	senator of the	first district.
Hez'h Willard,	"	second district.
John Paine,	"	third district.
Abner Haskell,	"	fourth district.
Solomon Smith,	"	fifth district.
Benjamin Nichols,	"	sixth district.
Benjamin Chace,	"	seventh district.
William James,	"	eighth district.
Christopher Smith,	"	ninth district.

Severally came into the house, and took the oath of office prescribed in the constitution, administered by the speaker in presence of the governor, lieutenant governor, and of the house.

Voted that Messrs. Simmons and Pearce be a committee to wait upon the governor, (with such others as the senate may add,) and enquire whether he has any communication to make to the general assembly.

The vote came down concurred; with the addition of Eli Brown, senator of the fifth district, to the committee.

Mr. Pearce, from the committee to ask the governor if he has any communication to make to the general assembly, reported, that the governor would, forthwith, in person, meet the two houses, and communicate a message.

The two houses having joined, the governor, in person, communicated his message.

The governor, lieutenant governor, and senators, retired from the house.

Mr. Simmons offered a set of rules, which were read, and voted to be laid on the table.

Mr. Simmons, of Providence, offered the following, to wit:

Resolved, That the governor be requested to inform the President of the United States, that the government of this State has been duly elected and organized under the constitution of the same; and that the general assembly are now in session, proceeding to discharge their duties according to the provisions of said constitution.

Resolved, That the governor be requested to make the same communication to the President of the Senate, and to the Speaker of the House of Representatives, to be laid before the two Houses of the Congress of the United States.

Resolved, That the governor be requested to make the same communication to the governors of the several States, to be laid before the respective legislatures.

The resolutions above [were] read twice, and voted unanimously, and sent up for concurrence.

Mr. Pearce offered the following resolution, to wit:

Resolved, That the governor be requested to make known, by proclamation, to the people of this State, that the government, under the constitution thereof, has been duly organized, and calling upon all persons, both civil and military, to conform themselves to said constitution, and to the laws enacted under the same; and to all other jurisdiction and authority duly exercised under and by virtu[e] of the same.

Voted unanimously, and sent up for concurrence.

Mr. Brown, of Glocester, moved, that when this [house] adjourn, it will adjourn to meet at this place at nine o'clock, A. M., and that, in the mean [time,] the sheriff be directed to prepare the State house for the reception *for* this house.

Motion, after debate, is adopted.

Mr. Simmons, of Providence, offered the following act, to wit:

Be it enacted by the general assembly, as follows: The act entitled "An act in relation to offences against the sovereign power of the State," passed at the March adjourned session of the general assembly, 1842, is hereby repealed.

Read once, and, on the second reading, Mr. Olney, of Cranston, moved to lay the bill on the table until to-morrow. The motion is negatived without a count.

The bill passed as an act, and is sent up for concurrence.

The secretary of State returned the resolutions voted by this house,

to inform the President, Congress, &c., of our organization, duly concurred in by the senate, and approved by the governor.

The secretary of State also returned the resolution voted by this house, to request the governor to issue his proclamation, &c., duly concurred in by the senate, and approved by the governor.

The secretary of State also returned the bill repealing the act "entitled an act in relation to offence against the sovereign power of this State," duly concurred in by the senate, and approved by the governor.

The house adjourned until nine o'clock to-morrow morning.

Attest: J. S. HARRIS, *Clerk.*

Wednesday morning, May 4th, A. D. 1842. The house met at 9 o'clock, A. M. The speaker in the chair. The house is called to order, the roll is read, and a quorum is present.

Mr. Olney, of Cranston, addressed a note to the speaker, asking to be excused from attending to-day in consequence of severe sickness in his family.

Voted to excuse Mr. Olney.

Mr. Wales, of Providence, offered the following resolutions, to wit:

Resolved, By this general assembly, (the senate concurring with the house of representatives herein,) that a committee of
be appointed to proceed to Newport, and to request a conference with a similar committee of the general assembly, now convened at that place, for the immediate and honorable adjustment of the controversy now existing in this State.

This resolution was read; and, after debate, was, on motion, *voted* to be laid on the table.

Mr. *Jenkes*, of *Cumberland*, offered a bill entitled "An act providing for the registration of electors, and directing the manner of voting by ballot in town and ward meetings.

Read; and, on motion, it is voted to take the bill up, and pass upon it by sections.

The first section is read, and passed to be enacted.

" second section " " "
" third section " " "
" fourth section " " "
" fifth section " " "
" sixth section " " "
" seventh section " " "
" eighth section " " "
" ninth section " " "

The bill as engrossed is passed to be enacted, and sent up for concurrence.

Mr. Brown, of *Glocester*, moved a bill entitled "An act to revive the charter of Glocester and Burrilville GREEN ARTILLERY.

The above bill was read twice, and passed, and sent up for concurrence.

Mr. Pearce presented a bill entitled "An act to repeal an act, enti-

tled an act in amendment of an act to prevent routs, riots, and tumultuous assemblys, and the evil consequences thereof," passed by the general assembly at their April session 1842.

Read twice; and, after debate, the same passed to be enacted, and sent up for concurrence.

Joseph Joslin, the general treasurer elect, came into the house, and having signified his acceptance of said office, took the oath in the words and form prescribed by the constitution, administered in the presence of the house.

Voted, On motion of *Mr. Pearce*, that Messrs. Simmons, Brown, of Glocester, Gavitt, Corey, Holley, and Bosworth, be a committee to report a bill fixing the pay of members of both houses at one dollar per day.

Mr. Pearce presented a bill entitled "An act to repeal certain resolutions passed by the general assembly at their April session 1842." The resolutions to authorize the governor to preserve the public property, to recall any arms loaned by the general assembly, to authorize the gov'r to fill vacancies in the offices of the militia, and the app't of a board of councillors.

Read, and passed to be enacted, and sent up for concurrence.

On motion, the rules of the house were taken up, and being read under each head, were debated, amended, and passed, as they appear on the files of the house.

Mr. Simmons, of Providence, from the committee on the compensation of members of the general assembly, report the following bill, to wit—

Be it enacted by the general assembly as follows, to wit:

Sec'n 1. The several members of the senate and house of representatives shall hereafter receive *a* as a compensation for their services the sum of one dollar for each day in which they shall be in actual attendance during any session of the assembly.

Sec. 2. The several members of the senate and house of representatives shall be entitled to receive the sum of ten cents per mile, each way, for their travel in attending each session.

The above bill is read, debated, and passed to be enacted, and sent up for concurrence.

Voted, That Messrs. Arnold, of Providence county, Arnold, of Washington co'y, Pearce, of Newport co'y, Bosworth, of Bristol co'y, and Newman, of Kent co'y, be a committee to consider to what time it is proper for the assembly to adjourn.

Adjourned until two o'clock, P. M.

JOHN S. HARRIS, *Clk.*

Afternoon session.—The house met at 2 o'clock, P. M. The speaker in the chair.

Upon a call of the roll a quorum is present.

Mr. Gavitt offered the following joint resolutions, to wit:

Resolved, by the house of representatives, (the senate concurring

herein,) that Messrs. Simmons, of Providence, and Mowry, of Smithfield, be a committee to demand, receive, and transfer the records, books, and papers appertaining to the office of the secretary of State, and transfer the same from Henry Bowen, late secretary of State, to his successor, William H. Smith; voted, and sent up for concurrence.

The committee, on the time to which this legislature should adjourn, report, by Mr. Arnold, and recommend that the gen'l assembly hold an adjourned session on the first Monday in July. Report accepted; and it is voted that when the gen'l assembly adjourn, (the senate concurring herein,) it will meet again on the first Monday in July next. Resolution drawn and sent up.

Mr. Pearce offered the following resolution, to wit:

Resolved, That the governor be further requested to call on all persons who are or may become indebted to the State, to make payment to the duly appointed officers and agents under the provisions of said constitution; and to make known to all persons that no payment to any other officers or agents than those aforesaid will be considered as a discharge of their obligations.

Resolved. That the governor be requested to call on all persons who are in possession, or have charge of any of the public property, to deliver the possession or charge of said property to the authorities and officers acting under the constitution and laws of the State.

Read and passed, and sent up for concurrence.

That act repealing the amendment to the riot act, passed this morning, came down concurred in by the senate, and approved by the governor.

The act, providing for the registration, &c., of votes came down with an amendment changing the time, &c. of registry. Voted to concur with the senate in the amendment.

On motion, it is voted that the two houses join in committee to proceed upon the election of officers.

Mr. Brown, of Glocester, moved the following bills, to wit—

Be it enacted by the gen'l assembly as follows:

Sec. 1. If any person or persons, or body corporate, from whom any sum or sums of money may become due and payable to the gen'l treasurer of this State, elected under the provisions of the constitution of this State, as adopted by the people thereof, according to the provisions of the act to which this is an addition, or of other acts in addition or amendment to the same, should refuse or neglect to pay said sum or sums of money as by law directed, he or they so refusing and neglecting shall be liable to pay interest for the retainer of such sum or sums of money, at and after the rate of one per cent. of the amount due for each month's neglect and refusal as aforesaid.

Section 2. If any person or persons, or body corporate, holding in their possession any other money or property whatsoever, belonging to the State, shall refuse to pay over and deliver to any officer or agent of the State, duly authorized to receive the same, after being duly required thereto, he or they so refusing, shall be liable to be sued therefor, in any court of

competent jurisdiction, in the name of the general treasurer aforesaid, and on rendition of judgment in any such case, against the defendant or defendants, the court, before whom such judgments may be rendered, shall assess damages thereon at double the amount of the money or value of the property found due, with costs.

Read and passed to be enacted, and sent up for concurrence.

The act reviving the charter of the Greene artillery, came down, concurred and approved by the governor.

The act repealing the act establishing volunteer companies in Providence, came down, concurred and approved by the governor.

The act repealing certain resolutions passed in April last, investing the governor with great power, and appointing his council, came down, concurred and approved by the governor.

The two houses having joined, on motion, his honor the lieutenant governor was called to preside.

The election of all civil officers *were* postponed until the next session of the general assembly.

Several military officers were appointed, the records of which will appear on the sec'y's minutes.

The two houses separate—

The act submitted to enable the governor to appoint and commission officers, and to organize the militia, was taken up, debated, and committed to Mr. Brown, of Glocester.

Mr. Brown made report, that the act referred to him, giving the governor certain power in appointing and organizing the militia, reports, that the act is unconstitutional, and asks to be discharged from the further consideration of the same.

Voted to discharge the committee, and the act is laid on the table.

Mr. *Burney* offered the following resolution, to wit:

Resolved, That the thanks of this house are due to their constituents, civil and military, for the zeal they have displayed, and efficient aid rendered, in assisting this general assembly in organizing the government under the constitution.

Voted unanimously.

Mr. Simmons offers a resolution authorising the governor to send commissioners to Washington, to make known to the President our position, &c.

Voted that the same be laid on the table.

Mr. Simmons moved the following resolution, viz:

Resolved, by the house of representatives, (the senate concurring herein,) that Messrs. Pearce and Chace be a committee to demand, receive, and transfer all the moneys, bonds, securities, records, books, and papers, and every other article appertaining to the office of the general treasurer of this State, from Stephen Cahoone, late treasurer, to Joseph Joslin, his successor.

Voted and sent up for concurrence.

Mr. Wales moved the following act, to wit:

Sect. 1. Be it enacted by the general assembly as follows: The char-

ter of the United Independent company of volunteers of the city of Providence is so amended as that said company is authorized to receive and enrol additional members to the number of two hundred, exclusive of commissioned officers.

Voted to be enacted, and sent to the senate for concurrence.

Voted that the house take a recess for one hour, it being now five o'clock, P. M.

At six o'clock, P. M., the house re-assembled. The speaker and a quorum present.

The act authorizing the volunteer company to increase the number of their men, came down, concurred and approved by the governor.

The act transferring the effects of the office of the secretary of State and general treasurer, came down, concurred and approved by [the] governor.

The act to collect the revenue, and secure the payment to, and the possession of, the State property, and the consequences and liability in not paying and delivering the same to officers under the constitution, came down, concurred and approved by the governor.

The act relating to the pay and travel of the members of the general assembly, came down, concurred and approved by the governor.

The act relating to the duties of those *of those* indebted to the State, marked No. 1, came down, concurred and approved by the governor.

The resolutions to adjourn until the first Monday in July next, came down, concurred and approved by the governor.

Mr. Taber, of Smithfield, moved the following bill—

Be it enacted by the general assembly as follows, to wit:

Sec. 1. In all elections of the captains and subaltern officers of militia companies, at their annual elections, shall be made by the members of said companies delivering their votes, with the name of the person voted for thereon, to the officer of the company in command, on the day of election; and all companies who may have neglected to choose officers at their annual election, may proceed to choose the same as aforesaid, on any day before the next annual election.

Sec. 2. The chartered military company*s* who have not made their returns, may make the same at any time previous to the next adjourned session of this assembly.

Sec. 3. The governor is hereby authorized to commission the officers, chosen by volunteer companies in this State, for a term not exceeding one year from this time.

Voted to be enacted, and sent up to the senate for concurrence.

Mr. Simmons moved the following resolutions, viz:

Resolved, by the house of representatives, (the senate concurring therein,) that the governor be authorized to appoint suitable persons, on behalf of this State, to proceed to Washington, to make known to the President of the United States, that the people of this State have formed a written constitution, and elected officers, and peaceably organized the government under the same, and that said government is now in full operation.

Voted, and sent up for concurrence.

Mr. Nathl. C. Smith, a member from Barrington, sent to the speaker his resignation as a member of the house. Voted, that the same be accepted, and that the speaker issue his warrant, to the electors of said town, requiring them [to] elect another representative in his place.

Mr. George Niles, a member from Richmond, resigned his seat.

Voted, that the same be accepted, and the speaker issue his warrant, to the electors of said town, requiring them to elect another representative in his place.

Voted, that the clerks be directed to make out certificates of attendance, for the pay of each member, according to the act of this session, and to deliver to them respectively.

On motion of Mr. Pearce, Mr. Simmons was, by vote, a committee to wait upon the governor, and inform him, that this house is ready to adjourn, if he has no particular communication to make to them.

Mr. Simmons, the committee to wait upon the governor, made report, that he had performed that duty, and that the governor had nothing further to communicate.

The act relating to the election of military officers, and to commissioning the same, and to chartered companies, came down, concurred and approved by the governor.

The resolution, appointing commissioners to proceed to Washington, came down, concurred and approved by the governor.

Voted, That John S. Harris be allowed and paid out of the treasury, for his services as clerk this session, six dollars.

Voted, That Levi Salisbury be allowed and paid out of the treasury, for his services as clerk this session, six dollars.

Voted, That Burrington Anthony be allowed and paid out of the treasury, for attendance as sheriff and other expenses, this session, the sum of five dollars and fifty cents.

Voted, That Seth Howard be allowed and paid out of the treasury, for attendance of himself and other officers this session, the sum of ten dollars.

On motion of Mr. *Newman*, of Warwick, it is unanimously *voted*, that the thanks of this house be presented to the speaker, for the able, dignified and impartial manner in which he has presided over its deliberations.

Voted and resolved, That all officers not re-elected, and in whose places others have not been appointed, be, and they are hereby continued in their respective officers until the adjourned session of this general assembly, to be holden at Providence, on the first Monday of July, 1842, with as full power and authority as they have at any time had.

Voted and resolved, That all business lying before this assembly unfinished, be referred to the adjourned session, to be holden on the first Monday in July, 1842. That the secretary cause the acts, orders and resolutions passed at this session to be published, with a suitable index, and distributed according to law; and that this assembly be, and the same is hereby, adjourned to the first Monday in July, 1842, then to con-

vene in the city of Providence. Voted to be enacted, and sent up for concurrence.

The vote of adjournment came down, concurred; and thereupon the speaker informed the house that they were adjourned accordingly.

Attest, JOHN S. HARRIS, *Clerk.*

Copy.

OATH OF THE SPEAKER.

I, Welcome Ballou Sayles, being elected to the place of representative and speaker of that house, do solemnly swear, that I will be true and faithful to the State of Rhode Island and Providence Plantations, and that I will support the constitution thereof; that I will support the Constitution of the United States, and that I will faithfully and impartially discharge the duties of my aforesaid office to the best of my abilities and understanding. *So help me God.*

WELCOME B. SAYLES.

Rules of the house of representatives of the State of Rhode Island and Providence Plantations, May session, A. D. 1842.

First—of the speaker.

1st. He shall take the chair every day at the hour at which the house shall have adjourned, and shall immediately call the members to order.

2d. He shall preserve decorum and order; may speak as other members on general questions, when he shall call some other member to the chair; but may speak to points of order in preference to other members, rising from his seat for that purpose; and shall decide all questions of order, subject to an appeal to the house, by any one member.

3d. He shall rise to put a question, but may state it sitting; questions shall be distinctly put in this form, to wit: "gentlemen, in the affirmative, will say aye;" and after the affirmative is expressed, "gentlemen, in the negative, will say no;" if the speaker doubts, or a division be called for, the house shall divide.

4th. He shall appoint all committees, whether standing, special, or joint.

Secondly—of decorum and debate.

1st. When any member is about to speak in debate, or deliver any matter to the house, he shall rise from his seat, and respectfully address himself to "Mr. Speaker."

2d. Call to order.

If any member, in speaking or otherwise, transgress a rule of the house, the speaker shall, or any member may, call to order; in which case, the member so called to order shall immediately sit down, unless permitted by the speaker to explain, and the house shall, if appealed to, decide on the case, but without debate.

3d. When two or more members happen to rise at once, the speaker shall name the member who is to speak first.

4th. No member shall, more than twice, [speak] to the same ques-

tion, without the leave of the house; nor more than once, until every member, choosing to speak, shall have spoken.

5th. While the speaker is putting any question, or addressing the house, or when a member is speaking, none shall entertain private discourse, nor walk between the member who is addressing the speaker and the chair.

6th. No member shall vote on any question of private property, in the event of which he is immediately and particularly interested.

7th. No member shall speak or vote, unless when within the bar of the house. Every member who shall be in the house when the question is put, shall give his vote, unless the house, for special reasons, shall excuse him.

8th. When a motion is made, it shall be entertained by the house, and shall be stated by the speaker; or being in writing, shall be handed to the speaker and read aloud by the clerk, before debate.

9th. After a motion is stated by the speaker, or read by the clerk, it shall be deemed to be in possession of the house, but may be withdrawn at any time before decision or amendment.

10th. Precedency of question.

When a question is under debate, no motion shall be received, unless to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit, or amend; which several motions shall have precedence in the order in which they are here arranged.

11th. A motion to adjourn shall always be in order and decided without debate.

12th. When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the house.

13th. Upon calling the house, and taking the ayes and noes on any question, the names of the members shall be called alphabetically.

14th. Ayes and noes.

The ayes and noes of the members on any question shall, at the request of any five members, be placed on the journals of the house.

15th. Fourteen members to compel attendance.

Any fourteen members, including the speaker, (if there is one,) shall be authorized to compel the attendance of absent members.

16th. Public bills to be read twice.

No bill, of a public nature, shall be passed without two readings.

17th. Petitions, when received, &c.

All private petitions, presented during any session, shall be lodged with the clerks, and filed by them in the order they are presented, and shall be acted upon in the same order.

18th. The speaker, with acquiescence of the house, may, on private petitions, and other matters of an individual concern, permit counsel to address the house; and it shall be his duty to enforce decorum and order at the bar of the house.

19th. Docket of unfinished business.

At the close of every session, the clerks shall make, on their journal, an entry of all business postponed or unfinished, in the order in

which it was introduced before the house, which entry shall be read at the commencement of the next succeeding session; and said business shall be acted upon before any other business, and in its order on the journal; and the clerks of the house, at the commencement of each session, shall furnish a printed docket of such unfinished business to each member of the house.

Thirdly—of standing committees.

1st. Standing committees.

Standing committees, to consist of five members each, shall be appointed at the commencement of the May or June session, to wit: a committee on finance; a committee on judiciary; a committee on corporations and corporate rights; a committee on education; a committee on militia; a committee on accounts and claims; a committee on agriculture, and a committee on leave of absence; which said several committees shall be named and appointed by the speaker.

2d. Finance.

It shall be the duty of the committee on finance, to take into consideration all such reports of the general treasurer, and all such propositions relative to the revenue as may be referred to them by the house; to inquire into the state of the public debt, or of the revenue and the expenditures, and to report, from time to time, their opinion thereon, and such propositions relative thereto, as to them shall seem expedient.

3d. Judiciary.

It shall be [the] duty of the committee on the judiciary to take into consideration all such petitions, matters, or things touching the judiciary, or judicial proceedings, as may come in question, or be referred to them by the house, and report their opinion thereon, together with such propositions relative thereto, as to them shall seem expedient.

4th. Corporations.

It shall be the duty of the committee on corporations and corporate rights, to take into consideration all such petitions for charters (other than charitable, religious, literary, or military purposes) and for amendment of charters, and generally all such matters or things relative to corporations, as may be referred to them by the house, and to report their opinions thereon, together with such propositions relative thereto, as to them shall seem expedient.

5th. Education.

It shall be the duty of the committee on education to take into consideration all such petitions, matters, or things relative to public schools and to public instructions, religious or literary, as may be referred to them by the house, and to report their opinions thereon, and such propositions relative thereto as may to them seem expedient.

6th. Militia.

It shall be the duty of the committee on the militia to take into consideration all such petitions for charters for military companies, or for the amendments thereof, and all such matters or things in relation to the militia as shall be referred to them by the house, and to report their opinion

thereon, and such propositions relative thereto as to them shall seem expedient.

7th. It shall be the duty *on* committee on accounts and claims to take into consideration, in convention with such committee as the honorable senate may appoint for that purpose, all such accounts and petitions in relation to claims or claimants against the State, as may be referred to them, and to report their opinion thereon, together with such propositions for relief therein as to them shall seem expedient.

8th. Agriculture.

It shall be the duty of the committee on agriculture to take into consideration all such petitions, matters, or things relative to agriculture, and all propositions for improvement therein, as shall be referred to them by the house, and to report their opinion thereon, and such propositions relative thereto, as to them shall seem expedient.

9th. Precedence of petitions.

A motion to refer to a standing committee shall take precedence of a motion to refer to a select committee.

10th. Select committees.

Select committee shall consist of three members, unless otherwise ordered by the house.

11th. No rule shall be dispenced with unless by a majority of two-thirds of the members voting; but any rule may be rescinded, after one day's notice, by a majority.

House of Rep., May 4, 1842. Read and voted, &c.

LEVI SALISBURY, *Clerk.*

Schedule N c.

No. 1, 1*st.*—State of Rhode Island and Providence Plantations, general assembly, May session, in the city of Providence, A. D. 1842.

Resolved, That the governor be requested to inform the President of the United States that the government of this State has been duly elected and organized under the constitution of the same; and that the general assembly are now in session, and proceeding to discharge their duties according to the provisions of said constitution.

Resolved, That the governor be requested to make the same communication to the President of the Senate and to the Speaker of the House of Representatives, to be laid before the two Houses of the Congress of the United States.

Resolved, That the governor be requested to make the same communication to the governor of the several States, to be laid before their respective legislatures.

House of Representatives, May 3d, 1842. Read and voted.

By order:

J. S. HARRIS, *Clerk.*

In senate, May 3d, 1842. Read the same day, and concurred in.

By order:

WILLIAM H. SMITH, *Secretary.*

May 2d, 1842.

Approved:

T. W. DORR, *Governor.*

No. 2. HOUSE OF REPRESENTATIVES, *May* 3d, 1842.

Resolved, That the governor be requested to make known, by proclamation, to the people of this State, that the government, under the constitution thereof, has been duly organized; and calling upon all persons, civil and military, to conform themselves to said constitution, and to the laws enacted under the same, and to all other jurisdiction and authority duly exercised under and by virtue of the same.

House of Representatives, May 3d, 1842. Read and voted.

By order: J. S. HARRIS, *Clerk.*

In senate. Read same day, and concurred in.

By order: WILLIAM H. SMITH, *Secretary.*

May 3d, 1842.

Approved: T. W. DORR, *Governor.*

No. 3.—State of Rhode Island and Providence Plantations, general assembly, May session, city of Providence, A. D. 1842.

Be it enacted by the general assembly as follows: That the act entitled "An act in relation to offences against the sovereign power of the State," passed at the adjourned session of the general assembly, holden in March, 1842, be, and the same is hereby, repealed.

House of representatives, May 3d, 1842.

Passed by order:

J. S. HARRIS, *Clerk.*

In senate. Read the same day, and concurred in.

By order: WILLIAM H. SMITH, *Secretary.*

Approved: T. W. DORR, *Governor.*

May 3d, 1842.

Act No. 4. May session, 1842.

An act providing for the registration of electors, and directing the manner of voting by ballot in town and ward meetings.

Be it enacted by the general assembly as follows, viz:

Section first. At every annual election of town or city officers there shall be chosen three inspectors of registry in each town and ward, whose duty it shall be to meet on the first Monday in June annually, and prepare a perfect register, as near as may be, of all persons entitled to vote in said town or ward; and said inspectors shall be sworn or affirmed to the faithful performance of the duties of their said office, before entering thereon, and shall give notice of the time, place and purpose of their said meetings, by notice posted up in at least three public places in said town or ward, for the space of ten days, at least, next before said meetings. A majority of said inspectors shall be sufficient for the transaction of business; and they shall have power to administer oaths or affirmations touching any matter relative to the formation of said register.

Section second. Said register shall consist of two separate lists, one containing the names of electors qualified to vote for officers, and on a

questions relative to taxation, and the expenditure of public money, and the other containing the names of electors qualified to vote for officers only. Each list shall be alphabetically arranged according to the surnames; and said inspectors shall, within two days after said meeting, post up copies of said register, under their hands, in three public places in their respective towns and wards.

Section third. And it shall also be the duty of said inspectors to attend every town and ward meeting in their respective towns and wards before the opening of the polls, to amend their said register by adding thereto the names of qualified persons not previously registered, and by putting each name in its proper list; and, after correcting said register as aforesaid, said inspectors shall deliver a certified copy thereof to the town or ward clerks, for the use of the moderators or wardens, before the opening of the polls; and shall also record the same in a book kept for that purpose, which shall be opened for the inspection of any elector demanding to examine the same.

Section fourth. Any elector of the town or ward wherein he may be entitled to vote, may challenge the vote of any person in said town or ward, by stating his objections to the moderator or warden, at the time such vote may be offered, or by leaving his objections, in writing, with said moderator or warden, before such vote may be offered; and in case of one challenge, said moderator or warden shall proceed immediately to examine such persons, as he may think necessary, by oath or affirmation, in regard to such challenge, and thereupon receive or reject such vote as to him shall appear lawful.

Section fifth. At every town or ward meeting, the moderator or warden shall have before him a certified copy of the last preceding registration, and shall receive no votes but in accordance therewith, and said moderator or warden, on receiving any vote, shall declare the name of the voter, and the clerk, moderator, or warden of said meeting, shall check the name of the voter before his vote shall be deposited in the ballot box, and from which a list shall be made by said clerk at length on a seperate paper; and in cases where two or more polls are open at the same time, the electors shall present their votes for each poll at one time, in which case one declaration and one record of the voter's name shall be sufficient.

Section sixth. If any inspectors shall wilfully refuse to register the name of any qualified elector, or fraudulently register the name of any unqualified person, or shall fraudulently neglect to perform the duties of said office, he shall be deemed guilty of a misdemeanor, and be liable to be indited therefor, and on conviction to be fined not less than fifty dollars, nor more than five hundred dollars for each offence. And if any moderator or warden shall fraudulently refuse the vote of any qualified elector, or wilfully receive the vote of any unqualified person, such moderator or warden shall be deemed guilty of a misdemeanor, and be liable to be indited therefor, and on conviction shall be fined not less than ten dollars, nor more than twenty dollars; and any person who may fraudulently obtain the registration of any one as an elector, or fraudulently of-

fer any vote, or who may wilfully disturb the polls, or any meeting of said inspectors, or the safe keeping of any votes, or the counting of any votes, shall be liable for every such offence to pay a fine of $20, to be recovered on complaint and conviction before any justice of the peace, in the courts where such offence may be committed.

Section seventh. The fees of said inspectors shall be two dollars to each inspection for attendance at their annual meeting, and one dollar for each inspector for attendance at town and ward meetings, and twenty-five cents for every two hundred names in all copies hereby required to be given; the fees of any absent inspector to be divided between the inspectors attending, which fees shall be paid by the town or city wherein such registration is made.

Section eight. And for the purpose of preparing a register of electors for the election of officers, and the transaction of business in town and ward meetings, before the first annual election of inspectors, as herein provided, there shall be appointed and commissioned by the governor, before the third Monday in May, 1842, three suitable persons in each town and ward in this State, who shall meet on the third Tuesday in May, A. D. 1842, without giving notice as aforesaid, and attend all town and ward meetings in their respective town and wards, until the election of their successors as aforesaid, and proceed in the formation and amendment of register of electors in the same manner as herein provided for the registration of electors by the aforesaid inspectors.

Section ninth. All laws inconsistent with the provisions of this act, are hereby repealed.

House of representatives, May 4th, 1842. Read and voted, &c.
By order: LEWIS SALISBURY, *Clerk.*

In senate, read the same day, and concurred in with an amendment of the eight section, by inserting the words, third Tuesday in May, in lieu of the words, first Monday in June, and by adding the words, without giving notice as aforesaid, next after the figures 1842.
By order: WM. H. SMITH, *Secretary.*

House of Representatives, May 4th, 1842. Voted, that the house concurred in the amendments made by the senate.
By order: J. S. HARRIS, *Clerk.*

May 4th, 1842. Approved,
T. W. DORR, *Governor.*

No. 5.—An act to repeal certain resolutions passed by the general assembly at their April session, 1842.

Be it enacted by the general assembly, as follows, the following resolutions passed by the general assembly at their session aforesaid, to wit:

Resolved, That his excellency the governor be, and he is hereby, authorized to take such measures as he shall deem necessary to protect and preserve public property of this State, or, in case he shall deem any portion of the same unsafe in its present situation, to remove said property to such place of safety as he shall think proper.

Resolved, That his excellency the governor be, and he is hereby, authorized to recall any arms or cannon that have been loaned by the general assembly to any of the independent or chartered companies of this State, or to any other person or persons.

Resolved, That his excellency the governor be, and he is hereby, authorized to fill any vacancy which may exist in the officers of the militia of this State, and to commission any officers he may appoint to fill such vacancies; and also, in his discretion, to approve the officers elected by the several independent companies at their last annual election, and commission the same accordingly.

Resolved, That Richard K. Randolph, James Fenner, Edward Carrington, Lemuel H. Arnold, Nathan F. Dixon, Peleg Wilbur, and Byron Dyman, be, and they are hereby, appointed a *board of counsellors* to advise with his excellency the governor as to the executive measures proper to be taken in the present emergency of the State, and that his excellency the governor be, and he is hereby, authorized at the expense of the State, to employ a private secretary to aid him in his duties, and that the said secretary be also clerk to the board of councillors, are hereby repealed.

House of representatives, May 4th, 1842. Read and voted.

By order: LEVI SALISBURY, *Clerk.*

In senate, read the same day, and concurred in.

By order: WM. H. SMITH, *Secretary.*

May 4th, 1842. Approved,

T. W. DORR, *Governor.*

No. 6.—An act to repeal an act, entitled "An act to authorize the establishment of volunteer police companies in the city of Providence," passed by the general assembly at their April session, 1842.

Be it enacted by the general assembly, as follows: Said act is hereby repealed.

House of Representatives, May 4, 1842. Voted, &c.

By order: J. S. HARRIS, *Clerk.*

In Senate. Read the same day, and concurred in.

By order: WM. H. SMITH, *Secretary.*

May 4, 1842.

Approved: T. W. DORR, *Governor.*

No. 7.—An act to repeal an act, entitled "An act in amendment of an act, entitled 'An act to prevent routs, riots, and tumultuous assemblages, and the evil consequences thereof,'" passed by the general assembly at their April session, 1842.

Be it enacted by the general assembly, as follows: Said act is hereby repealed.

House of Representatives, May 4, 1842. Read and voted, &c.

LEVI SALISBURY, *Clerk.*

In Senate. Read the same day, and concurred in.

By order: WM. H. SMITH, *Secretary.*

May 4, 1842.

Approved: T. W. DORR, *Governor.*

No. 8.—An act to amend the charter of the independent company of United Volunteers in the city of Providence.

Be it enacted by the general assembly as follows: The charter of the independent company of United Volunteers in the city of Providence is so amended that said company is authorized to receive and enroll additional members to the number of two hundred, exclusive of the commissioned officers.

House of Representatives, May 4, 1842. Voted, &c.
By order: J. S. HARRIS, *Clerk.*
In Senate. Read same day, and concurred in.
By order: WM. H. SMITH, *Secr'y.*
May 4, 1842.
Approved: T. W. DORR, *Governor.*

No. 9.—In general assembly at Providence, in May, A. D. 1842.

An act in addition to an act, entitled an act imposing dutys upon licenced persons and others, and bodies corporate within this State.

Be it enacted by the general assembly as follows, viz:

Section 1. If any person or persons, or body corporate, from whom any sum or sums of money may become due and payable to the general treasurer of this State, elected under the provisions of the constitution of this State, adopted by the people thereof, according to the provisions of the act to which this is in addition, or of other acts in addition or amendment to the same, shall refuse or neglect to pay said sum or sums of money, as by law directed, he or they so refusing and neglecting shall be liable to pay interest for the retainer of such sum or sums of money at and after the rate of one per cent. of the amount due for each month's neglect and refusal as aforesaid.

Section 2. If any person or persons, or body corporate, holding in their possession any other money or property whatsover belonging to the State shall refuse to pay over and deliver the same to any officer or agent of the State duly authorized to receive the same, after being duly requested thereto, he or they so refusing shall be liable to be sued therefor in any court of competent jurisdiction, in the name of the general treasurer aforesaid; and on rendition of judgment in any such case against the defendant or defendants, the court shall assess damages therein at double the amount of the money or the value of the property found due, with costs.

House of Reps., May 4, 1842. Read, voted, &c.
By order: J. S. HARRIS, *Clerk.*
In Senate. Read same day, and concurred in.
Per order: WM. H. SMITH, *Secretary.*
May 4, 1842.
Approved: T. W. DORR, *Governor.*

No. 10.—An act providing for the compensation of the members of the general assembly.

Be it enacted by the general assembly as follows:

Sec. 1. The several members of the senate and house of representatives shall hereafter receive as a compensation for their services the sum of one dollar for each day in which they shall be in actual attendance during any session of the assembly.

Sec. 2. The several members of the senate and house of representatives shall be entitled to receive the sum of ten cents per mile each way for their travel in attending at each session.

R. May 4, 1843. Voted, &c.

By order: J. S. HARRIS, *Clerk.*

In Senate. Read same day, and concurred in.

By order: WM. H. SMITH, *Secretary.*

May 4, 1842.

Approved: T. W. DORR, *Governor.*

No. 11.—Resolved by the house of representatives, (the senate concurring therein,) That Perez Simmons and N. Mowry be a committee to demand and receive the records, books, and papers appertaining to the office of the secretary of State from Henry Bowen, late secretary of State, and transfer the same to his successor, William H. Smith.

R. May 4, 1842. Voted, &c.

By order: J. S. HARRIS, *Clerk.*

In Senate. Read same day, and concurred in.

By order: WM. H. SMITH, *Secretary.*

No. 12.—Resolved by the house of representatives, (the senate concurring therein,) That Mess. Pearce and Chase be a committee to demand, receive, and transfer all the monies, bonds, securities, records, books, and papers, and every other article appertaining to the office of general treasurer of this State, from Stephen Cahoone, late treasurer, to Joseph Joslin, his successor.

House of Representatives, May 4, 1842. Voted, &c.

By order: J. S. HARRIS, *Clerk.*

In Senate. Read same day, and concurred in.

By order: WM. H. SMITH, *Secretary.*

May 4, 1842.

Approved: T. W. DORR, *Governor.*

No. 13.—Resolved, That the governor be requested to call on all persons who are, or may become, indebted to the State to make payment to the duly appointed officers and agents, under the provisions of the constitution; and to make known to all that no payment to any other officers or agents than those aforesaid will be considered as a discharge of their obligations.

Resolved, That the governor be requested to call on all persons who are in possession or have charge of any of the public property, to deliver possession or charge of said property to the authorities and officers acting under the constitution and laws of the State.

House of representatives, May 4, 1842. Voted, &c., by order.

J. S. HARRIS, *Clerk.*

In Senate. Read same day, and concurred in; per order.
WM. H. SMITH, *Secretary.*

May 4, 1842.
Approved: T. W. DORR, *Governor.*

No. 14. Resolved by the house of representatives, (the senate concurring herein,) that when the general assembly adjourn, they adjourn to meet in Providence on the first Monday in July next.

House of representatives, May 4, 1842. Read and voted, &c.; per order.
LEVI SALISBURY, *Clerk.*

In senate. Read same day and concurred in; by order.
WM. H. SMITH, *Secretary.*

No. 15. An act to revise the charter of the Gloucester and Burrillville Greene artillery.

Be it enacted by the general assembly as follows: *Sec.* 1. The charter heretofore granted to said company is hereby revived, and the governor is hereby authorized and requested to issue commissions to such officers as shall be elected by a majority of those who were members at the last muster of said company, in the same manner as if no forfeiture of said charter had ever been incurred.

Sec. 2. This act shall be subject to all future acts of the general assembly in amendment or repeal thereof, or in any wise affecting the same.

House of reps., May 4, 1842. Read and voted; by order.
LEVI SALISBURY, *Clerk.*

In senate. Read same day, and concurred in; by order.
WILLIAM H. SMITH, *Secretary.*

May 4, 1842.
Approved: T. W. DORR, *Governor.*

No. 16. An act prescribing the manner of voting by ballot in the election of the captains and subalterns of militia companies, and for other purposes.

Be it enacted by the general assembly as follows, viz: Section 1. In all elections of the captains and subalterns of militia companies at their annual election, the election shall be made by the members of said companies, delivering their votes, with the name of the person voted for thereon, to the officer of the company in command on the day of election; and all companies who may have neglected to choose their officers at their last annual election, may proceed to choose the same as aforesaid on any day before their next annual election.

Section 2. The chartered military companies, who have not made their returns, may make the same at any time previous to the next adjourned session of this assembly.

Section 3. The governor is hereby authorized to commission the officers chosen by volunteer companies in this State, for a term not exceeding one year from this time.

House of reps., May 4, 1842. Voted, &c.; by order.
J. S. HARRIS, *Clerk.*

In senate. Read same day, and concurred in; by order.
WM. H. SMITH, *Secretary.*

May 4, 1842.
Approved: T. W. DORR, *Governor.*

No. 17. Resolved by the house of representatives, (there senate concurring therein,) that the governor be authorized to appoint suitable persons, commissioners on behalf of the State, to proceed to Washington to make known to the President of the United States, that the people of this State have adopted a written constitution, and elected officers, and peaceably organized the government under that constitution, and that said government is now in full operation.

House of representatives, May 4, 1842. Voted, &c.
J. S. HARRIS, *Clerk.*

In senate. Same day, read and concurred in; by order.
WM. H. SMITH, *Secretary.*

May 4, 1842.
Approved: T. W. DORR, *Governor.*

No. 18. Voted and resolved, that all officers not re-elected, and in whose places others have not been appointed, be, and they are hereby, continued in their respective offices until the next adjourned session of this general assembly, to be holden at Providence, on the first Monday in July, 1842, with as full power and authority as they have at any time had.

Voted and resolved, that all business lying before this assembly unfinished, be referred to the adjourned session to be holden on the first Monday in July, 1842; that the secretary cause the act, orders, and resolutions, passed at this session, to be published with a suitable index, and distributed according to law; and that this assembly be, and the same is hereby, adjourned to the first Monday in July, 1842, then to convene in the city of Providence.

House of representatives, May 4, 1842. Read and voted, &c.
LEVI SALISBURY, *Clerk.*

In senate. Read same day, and concurred in; by order.
WM. H. SMITH, *Secretary.*

May 4, 1842.
Approved: T. W. DORR, *Governor.*

O.—*Table of Population.*

	Number of inhabitants in each town.	Representation.	Population to each representative.	Free white males over 21 years of age.	Votes for electors in 1840.	Colored males over 24 years of age.
Providence county.						
Providence	23,172	4	5,793	5,579	1,440	279
North Providence	4,207	2	2,103	938	212	14
Smithfield	9,534	2	4,767	2,049	578	9
Cumberland	5,224	2	2,612	1,195	364	3
Scituate	4,090	2	2,045	966	368	6
Cranston	2,902	2	1,451	747	255	23
Johnston	2,477	2	1,238	609	201	7
Glocester	2,308	2	1,154	591	272	2
Foster	2,181	2	1,090	554	272	
Burrillville	1,982	2	991	533	253	8
	58,077	22	–	13,791		
Newport county.						
Newport	8,333	6	1,388	1,970	560	67
Portsmouth	1,706	4	426	447	176	2
Middletown	891	2	445	220	80	3
Tiverton	3,183	2	1,591	787	255	11
Little Compton	1,327	2	663	315	139	
New Shoreham	1,069	2	534	244	103	3
Jamestown	365	2	182	99	37	6
	16,874	20	–	4,082		
Washington county.						
South Kingstown	3,718	2	1,859	800	394	51
Westerly	1,912	2	956	423	173	3
North Kingstown	2,909	2	1,454	686	244	15
Exeter	1,776	2	888	426	156	13
Charlestown	923	2	461	197	108	10
Hopkinton	1,726	2	863	376	193	3
Richmond	1,361	2	680	298	135	4
	14,325	14	–	3,206		
Bristol county.						
Bristol	3,490	2	1,745	784	306	39
Warren	2,438	2	1,219	500	235	15
Barrington	549	2	274	124	71	5
	6,477	6	–	1,408		
Kent county.						
Warwick	6,726	4	1,681	1,387	394	52
Coventry	3,433	2	1,716	795	357	2
East Greenwich	1,509	2	754	378	156	11
West Greenwich	1,416	2	708	362	134	3
	13,084	10	–	2,922		

P.

State of Rhode Island and Providence Plantations, Secretary's Office,
[L. S.] January 6, 1844.

I, Henry Bowen secretary of said State, and keeper of the records and the seal thereof, do certify, that the whole number of votes for general officers, as reported by the counting committee, appointed by the general assembly, at the May session, for the years after named, was as follows, viz:

For the year 1832.	Five thousand six hundred and fifteen.
For the year 1833.	Seven thousand three hundred and one.
For the year 1834.	Seven thousand two hundred and thirty-three.
For the year 1835.	Seven thousand six hundred seventy-four.
For the year 1836.	Seven thousand one hundred sixty-eight.
For the year 1837.	Four thousand two hundred seventeen.
For the year 1838.	Seven thousand seven hundred forty-six.
For the year 1839.	Six thousand two hundred seventy-three.
For the year 1840.	Eight thousand two hundred ninety-two.
For the year 1841.	Two thousand seven hundred and thirteen.

All which appears of record.

Q.

I further certify, that the subjoined is a true copy of an act entitled "an act establishing martial law in this State," passed by the general assembly of said State, on the twenty-fifth day of June, A. D. 1842; that said act remained in force and without repeal, until August 8, 1842, when its operation was suspended by proclamation of the governor until the first day of September, then next; and that on the thirtieth day of August aforesaid, the same was by like proclamation indefinitely suspended, as appears of record.

An act establishing martial law in this State.

Be it enacted by the general assembly as follows:

Section 1. The State of Rhode Island and Providence Plantations is hereby placed under martial law; and the same is declared to be in full force, until otherwise ordered by the general assembly, or suspended by proclamation of his excellency the governor of the State.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said State, at Providence, the day and year above written.

HENRY BOWEN.

Schedule Q a.

An act to provide for calling a convention of the people of this State, for the purpose of forming a new constitution or form of government for the people thereof.

Be it enacted by the general assembly, as follows:

Section first. The people of the several towns of this State, and of

the city of Providence, qualified to vote as in hereafter provided, are hereby requested at the town or ward meetings holden on the last Tuesday of August next, to choose so many delegates as they will be severally entitled to according to the provisions of this act; to attend a convention to be holden at Newport, on the second Monday of September next, to frame a new constitution for this State, either in whole or in part, with full powers for that purpose.

Section second. The majority of the whole number of delegates which all the towns and city of Providence are entitled to elect, shall constitute a quorum, who may elect a president, secretaries, and other officers; judge of the qualification of members; punish contempts, and establish such rules and proceedings as they may deem proper; said convention may adjourn to any place they may think proper. Any town or city which may fail to elect its delegates at the time prescribed, may choose them at any time before the meeting of the convention, and vacancies from resignations or otherwise, may be filled at any time by a new election.

Section third. The constitution or articles agreed upon by the convention, shall be submitted to those qualified to vote, as hereinafter provided, in open town or ward meetings, to be held on such day or days, and in such time and manner as the convention shall direct. The constitution or articles shall be certified by the president and secretaries, and with the journal and papers of the convention, deposited in the office of the secretary of State, who shall immediately distribute to the several towns and city clerks in due proportion, five thousand printed copies of the constitution or articles in pamphlet form, and also thirty thousand ballots, on one side of which shall be printed "Constitution or articles proposed by the convention holden at Newport, on the second Monday of September, A. D. 1842," and on the other side thereof, shall be written or printed the word "adopt" on one half of them, and the word "reject" on the other half. He shall also cause said constitution or articles to be published in any other manner the convention may prescribe.

Section fourth. At said town and ward meetings every person voting shall have his name written on the back of his ballott, and the ballotts shall be sealed up in open town or ward meetings by the clerks, and with lists of the voters be returned to the general assembly at the next session thereof; who shall cause the votes to be examined and counted, and if said constitution or articles be adopted by a majority of the persons having a right to vote, the same shall go into operation at such time or times, and in such manner, as shall be appointed by the convention.

Section fifth. The delegates to said convention shall be elected upon a basis of population according to the census of 1840, as follows: Every town, of not more than three thousand inhabitants, may elect two delegates; over 3,000, and not over 6,000, three delegates; over 6,000, and not over 10,000, four delegates; over ten thousand, and not over 15,000, five delegates; and over 15,000 six delegates.

Section six. In the choice of delegates to said convention, the following description of persons shall be admitted to vote: all those who are

qualified to vote for general officers by existing laws, and all native male citizens of the United States (except Narragansett Indians, convicts, paupers, persons under guardianship, and non compos mentis) who are of the age of twenty-one years and upwards, and who shall have had their permanent residence or home in this State for the period of THREE YEARS next preceding their voting, and in the town or city wherein they offer to vote for the period of one year next preceeding such voting, and who shall have had their names recorded with the town or city clerk of the town or city in which they shall offer to vote, in proper books to be kept by said town or city clerks for that purpose, at least ten days before the day of voting. In voting upon the adoption or rejection of said constitution or articles, in addition to those who are qualified to vote for general officers by the existing laws, all those shall be admitted to vote who will be qualified to vote for general officers under the provisions of said constitution or articles, if in force; but this provision shall not be construed to give to any person a right to vote at any town or ward meetings, held under and by virtue of this act, upon any other question or questions than the questions herein specifically named.

Section seventh. The delegates shall receive the same compensation for attendance as members of the general assembly, payable upon the certificate of the secretary.

Section eighth. A sum, not exceeding five hundred dollars, is hereby appropriated for defraying the expenses of said convention, to be paid out of the treasury, to the order of the president thereof.

Section ninth. It shall be the duty of the town, city, or ward clerks to warn, according to law, the meetings hereby appointed, and those which may be ordered by said convention.

Section tenth. Any fourteen members of the convention, including the president, if there be one, shall have full power and authority to compell the attendance of absent members. It shall be the duty of the sheriff of the county, where the convention shall be in session, to attend said convention and execute the orders thereof.

Section eleventh. Whenever, in any town or ward meeting, holden under this act, any dispute shall arise as to any person's residence or other qualifications, the moderator or warden, or person presiding in said meetings, shall have authority to examine, under oath, the person offering to vote, and other persons who may be present, respecting the same, and decide upon his qualifications, subject to review by the general assembly.

Copy.

An act to amend "an act to provide for calling a convention of the people of this State, for the purpose of forming a new constitution or form of government for the people thereof." Passed at June session, A. D. 1842.

Whereas, the convention, which assembled at Newport, on the 2d Monday of Sept. last, in pursuance of the provisions of the act aforesaid, have requested the general assembly to declare the true intent and construction of a part of the 4th section of said act; therefore,

Be it enacted by the general assembly as follows: If the constitution, or articles that may be framed and submitted to the people, under the provisions of said act, be adopted by a majority of the persons having a right to vote, and actually voting, upon the question of adopting the same, the said constitution or articles shall become the supreme law of the State, and shall go into operation at such time or times, and in such manner, as shall be appointed by said convention.

The foregoing is a copy of an act from the schedule of the October session, A. D. 1842, of the general assembly of Rhode Island.

Schedule R.

Copy from the records of the house of representatives, at their March session, 1842.

Under date of March 30th, is the following entry: "An act submitting to the people of this State a constitution or written form of government for their adoption or rejection, offered by Mr. Atwell, and read first time."

Under date April 1st, Mr. Atwell called up his bill proposing the "people's constitution" for adoption or rejection. The house was called upon its passage as follows:

Ayes: Atwell, W. S. Burgess, Gavitt—3.

Noes: The Speaker, Anthony, Atwood, Arnold, Bosworth, Brayton, Browning, Baker, A. Brown, C. Brown, Burton, Barber, Cranston, J. W. Clarke, J. Clarke, D. Clarke, Chase, Childs, A. Church, jr., N. Church, Cooke, Cole, Dixon, Dawley, Durfee, Drown, Green, Hoxie, Howe, Kenyon, Keech, Lawton, Low, J. Manchester, W. Manchester, Mathewson, Mowry, Perry, Potter, Pearce, Randolph, Rose, Reynolds, Robinson, Randall, Remington, Spencer, Sprague, Sherman, Slocum, Smith, Taggart, Vaughn, Watson, Whipple, Weaver, Wilkinson, Wood, Walling.—59.

So the bill was rejected by a majority of 56.

A true copy: THOMAS A JENCKES, *Clerk.*

The original act was mislaid or taken from the files, so that it cannot now be found.

THOS. A. JENCKES, *Clerk.*

Schedule X.

A Proclamation.

Whereas, the convention of the people of this State, at their last session, in the city of Providence, on the 13th day of January, A. D. 1842, passed the following resolutions, to wit:

Whereas, by the return of the votes upon the constitution proposed to the citizens of this State, by this convention, on the 18th day of November last, it satisfactorily appears, that the citizens of this State, in their original and sovereign capacity, have ratified and adopted said constitution by a large majority; and the will of the people, thus decisively made known, ought to be implicitly obeyed and faithfully executed.

We do, therefore, resolve and declare, that said constitution rightfully ought to be, and is, the paramount law and constitution of the State of Rhode Island and Providence Plantations.

And we do further resolve and declare, for ourselves, and in behalf of the people whom we represent, that we will establish said constitution, and sustain and defend the same by all necessary means.

Resolved, That the officers of this convention make proclamation of the return of the votes upon the constitution, and that the same has been adopted, and has become the constitution of this State; and that they cause said proclamation to be published in the newspapers of the same.

Now, therefore, in obedience to the above vote of said convention, we, the undersigned officers of the same, do hereby proclaim and make known to all the people of this State, that said constitution has been adopted by a large majority of the votes of the citizens of this State, and that said constitution of right ought to be, and is, the paramount law and constitution of the State of Rhode Island and Providence Plantations.

And we hereby call upon the citizens of this State to give their aid and support in carrying said constitution into full operation and effect, according to the terms and provisions thereof.

Witness our hands, at Providence, in said State, this 13th day of January, A. D. 1842.

JOSEPH JOSLIN,
President of the Convention.
WAGER WEEDEN,
SAMUEL H. WALES,
Vice Presidents.

WILLIAM H. SMITH,
JOHN S. HARRIS,
Secretaries.

The following agreement was entered into, relative to the foregoing bill of exceptions, and the papers thereto annexed, in the words following, viz:

Agreement.

It is agreed, that all the acts, resolutions and proceedings of the general assembly of the colony and State of Rhode Island and Providence Plantations, from the organization of the government, under the charter of sixteen hundred and sixty-three, to the organization of the government under the present constitution, to be found in the records, schedules, and digests of said colony and State, may be used in the trial and argument of said case of Martin Luther, plaintiff in error, against Luther M. Borden and others, defts., before the Supreme Court of the United States, in the same manner as if said acts, resolutions and proceedings, had been put in to this bill of exceptions. It is also agreed, that the printed constitution, printed by authority of the convention, and rejected by a majority of the votes thereon, on the 21st, 22d and 23d day of March, 1842, may be used in the trial of the above case, in the same manner as if the same were put into this bill of exceptions.

It is also agreed, that all other exhibits referred to in the statement of the evidence of either party, as annexed to such statement, may be used in the trial of said case, in the same manner as if said exhibits were annexed to the statement of the evidences in the bill of exceptions—such exhibits to be furnished to the opposite party within ten days from this date.

It is further agreed, that the bill of exceptions shall be allowed and signed by Mr. Justice Story, wherever he may be, at the time when the same shall be presented to him; and that a writ of error may be issued, and served, with the same effect as if the same was issued and been served prior to the present term of the Supreme Court of the United States; and that this cause shall be entered upon the docket of said court at this term accordingly; provided, that the plaintiff in error, before the service of said writ, give bond according to law, to the satisfaction of the district judge.

SAMUEL Y. ATWELL,
Counsel for pl'ff in error.
ALFRED BOSWORTH,
Attorney for def't in error.

PROVIDENCE, *Jan.* 30, A. D. 1844.

And the said Martin Luther, by his attorney, filed of record in said court his petition for writ of error in the words following, to wit:

Petition for writ of error.

RHODE ISLAND DISTRICT, *sc:*

Circuit court of the United States.

In the case MARTIN LUTHER
vs.
LUTHER M. BORDEN et al.

To the hon. John Pitman, judge of the United States for said Rhode Island district:

The said Martin Luther respectfully represents, that, at the last November term of said circuit court, judgment was rendered against him in favour of *of* the defendants in said cause, upon the verdict of the jury thereon; that the said plaintiff excepted to the charge of the court to the jury, and their ruling of the law in said case, as fully appears in the bill of exceptions filed in said case.

Whereupon, he prays, that a writ of error may be allowed in said cause, returnable to this term of the Supreme Court of the United States, now holden at the city of Washington.

MARTIN LUTHER,
By HORACE A. MANCHESTER,
His attorney.

We hereby acknowledge notice of the above citation.

LUTHER M. BORDEN,
STEPHEN JOHNSON,
WM. L. BROWN,
JOHN H. MONROE,
WM. B. SNELL,
JAMES GARDNER, and
JOHN KELLY,
By JOHN WHIPPLE,
ALF'D BOSWORTH, and
R. W. GREENE,
Their attorneys.

February 29, 1844.

Let a writ of error issue.

JOHN PITMAN, *District Judge.*

Bond.

Know all men by these presents, that we, Martin Luther, of Fall river, in the county of Bristol, and commonwealth of Massachusetts, as principal, and Hezekiah Willard, of Cranston, in the county of Providence, and State of Rhode Island, as surety, are jointly and severally held, and firmly bound, unto Luther M. Borden, Stephen Johnson, William L. Brown, John H. Munroe, William B. Snell, James Gardner, Silas P. Martin, Hammond Sergeant, and John Kelly, all of Warren, in said State of Rhode Island aforesaid, in the sum of three hundred dollars, to be paid to the said Luther M., Stephen, William L., John H., William B., James, Silas P., Hammond, and John, their heirs or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs or assigns, jointly and severally, by these presents.

The condition of the above obligation is as follows: whereas, at the November term of the circuit court of the United States, for the first circuit, begun and holden at Providence, within and for the Rhode Island district, on the fifteenth day of November, A. D. 1843, a certain cause was determined, wherein the said Martin Luther was plaintiff, and the said Luther M. Borden and others, were defendants; and the said Martin Luther has prayed for a writ of error, to carry up to the Supreme Court of the United States said cause: now, if the said Martin Luther shall prosecute his said writ of error with effect, before said Supreme Court of the United States, and shall well and truly pay all such costs and damages as shall be adjudged for him to pay, by said Supreme Court, or by said circuit court, by reason of said writ of error, then, the before written obligation shall be void and of no effect; otherwise, it shall remain in full force and effect.

Sealed with our seals, and dated this first day of March, A. D. eighteen hundred and forty-four.

MARTIN LUTHER, [L. S.]
HEZEKIAH WILLARD. [L. S.]

Signed, sealed, and delivered in presence of—The word "to" being first stricken out, and "with" interlined, before signing—

HENRY PITMAN.

March 2d, 1844.

Approved: JOHN PITMAN,
Dist. Judge. R. I. dist.

And afterwards, to wit, on the second day of March, in the year of our Lord one thousand eight hundred and forty-four, the aforesaid Martin Luther, by his attornies aforesaid, produced to the said circuit court here the writ of the United States of America, for the correcting of errors of and upon the premises, commanding the record and proceedings of the judgment aforesaid, so aforesaid rendered, with all things concerning the same, to be transmitted to the Supreme Court of the United States, holden at the city of Washington, which said writ of error is hereto annexed, and is in the words and tenor following, to wit:

UNITED STATES, *sc:*

[SEAL.] The President of the United States of America, to the judges of the circuit court of said United States, within and for the Rhode Island district, greeting:

Because that, in the record and process, and also in the rendering of judgment, in a suit before you, or some of you, between Martin Luther, of Fall river, in the district of Massachusetts, a citizen of the State of Massachusetts, plaintiff, and Luther M. Borden, Stephen Johnson, William L. Brown, John H. Munroe, William B. Snell, James Gardner, and John Kelly, of Warren, in the Rhode Island district, and citizens of the State of Rhode Island and Providence Plantations, defendants, in an action of trespass, a manifest error has intervened, to the great damage of the said plaintiff, as has, in his complaint, been stated; and [as] it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf;

You are hereby commanded, that if judgment thereof be given, then, under your seal, you do, distinctly and openly, send the record and process, in the suit aforesaid, with all things concerning them, and this writ, so that you have the same before the chief justice and the associate justices of the Supreme Court of the United States, now at Washington, being the present seat of the National Government, that the record and process aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness, the honorable Roger B. Taney, our chief justice of the Supreme Court, this second day of March, in the year of our Lord one thousand eight hundred and forty-four.

JOHN T. PITMAN,
Clerk circuit court.

March 9, 1844.

Allowed: JOSEPH STORY.

UNITED STATES OF AMERICA,
Rhode Island district, sc:

CLERK'S OFFICE, CIRCUIT COURT,
[L. S.] *At Providence, March 2d, A. D.* 1844.

I, John T. Pitman, clerk of said court, do hereby certify, that the preceding one hundred and forty-five pages contain a true transcript of the record and proceedings in the case, Martin Luther vs. Luther M. Borden et al., now on file in this office; together with the original bill of exceptions, and the writ of error.

In testimony whereof, I have hereunto affixed the seal of said court, on the day and year above written. JOHN T. PITMAN, *Clerk.*

RHODE ISLAND DISTRICT, *sc:*

The United States of America to Luther M. Borden, Stephen Johnson, William L. Brown, John H. Munroe, William B. Snell, James Gardner, and John Kelly, all of Warren, in said Rhode Island district, and citizens of the State of Rhode Island and Providence Plantations, greeting:

You are hereby severally cited and admonished to appear forthwith at the Supreme Court of the United States, now holden at the city of Washington, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the first circuit in and for the Rhode Island district, wherein Martin Luther, of Fall river, in the district of Massachusetts, is plaintiff in error, and you, the said Luther M. Borden, Stephen Johnson, William L. Brown, John H. Munroe, William B. Snell, James Gardner, and John Kelly, are defendants in error, to show cause, if any there be, why the judgment rendered against the said Martin Luther, in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the seal of said circuit court, and my hand, this first day of
[L. S.] March, A. D. one thousand eight hundred and forty-four.

JOSEPH STORY,
One of the justices of the Sup. Ct. of U. States.

PROVIDENCE, *March 2d, A. D.* 1844.

We hereby acknowledge due and legal service of the above citation, and agree that this acknowledgment of service shall be as full and effectual, for the purpose of the entering said case, and the prosecuting the same at the present term of the United States court, and to a final decision therein, as though this citation had been duly sued out before the sitting of said court at its present term, at the time directed by law, and legally and duly served by the marshal; and fully to carry out the original agreement, for carrying up said case, entered into by and between said parties, and in said case filed.

Luther M. Borden, Stephen Johnson, William L. Brown, John H. Munroe, William B. Snell, James Gardner, and John Kelly, by
JOHN WHIPPLE, ALFRED BOSWORTH,
and R. W. GREENE, *their atty's.*

Filed 1844.